

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
STATESVILLE DIVISION

UNITED STATES OF AMERICA,            ) DOCKET NO. 5:15-cr-15-1  
  )  
  ) vs.  
  ) VOLUME I OF IV  
STEVEN W. CHASE,                    )  
  )  
  ) Defendant.  
\_\_\_\_\_)

TRANSCRIPT OF JURY TRIAL PROCEEDINGS  
BEFORE THE HONORABLE RICHARD L. VOORHEES  
UNITED STATES DISTRICT COURT JUDGE  
SEPTEMBER 13, 2016

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Charlotte, North Carolina

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P R O C E E D I N G S

TUESDAY, SEPTEMBER 13, 2016:

(Court called to order at 9:43.)

THE COURT: Good morning, ladies and gentlemen.

ALL COUNSEL: Good morning, Your Honor.

THE COURT: A couple things pertaining to motions.

First, should there be a guilty verdict, we would consider the request about polling jurors concerning sentencing, although I haven't ever heard of that being done before. I do have a case where someone in the Sixth Circuit has done that. So we can hear you on that if you want to pursue that after a verdict.

It appears that the forfeiture issue, should there be a finding of guilty, would be appropriate for jury determination. Any objection to that idea?

MS. RANDALL: No, Your Honor.

THE COURT: So we'll take that up and we have some jury instructions we've used in the past to let the jury make any necessary finding along that line.

Concerning the Government's motion to exclude certain evidence, the Government relies on Rules 401, 402 and 403. The Court will grant that motion to exclude evidence of the Government's operation of the PlayPen website following defendant's arrest. To the extent that comes into conflict with the evidence or, rather, the fact that the charges

1 evidently include a period of time after the defendant's  
2 arrest, meaning that the activities of the Government on the  
3 website could be ostensibly relevant. However, it seems to  
4 the Court that if the Government by stipulation, or the  
5 parties by agreement otherwise, would simply avoid -- well, if  
6 there was a stipulation that the defendant be allowed, excuse  
7 me, a stipulation to the jury that the Government is not  
8 presenting evidence of his operating the website after his  
9 arrest that would seem to solve the problem. Any comment  
10 there?

11 MR. ADOLF: Judge, may I be heard on that motion?

12 THE COURT: Yes, you may.

13 MR. ADOLF: The government starts that this is an in  
14 limine motion so it's asking the Court for an evidentiary  
15 ruling, essentially, before any evidence has been presented.  
16 And the Government sets out a number of things that the --  
17 their evidence of when they were running the website is not  
18 relevant. But there are other matters to which it is relevant  
19 and will be relevant, I believe.

20 And the first and foremost of that is that  
21 throughout the -- well, the Government's case is based on what  
22 they are saying is Mr. Chase's activities running this website  
23 over a number of months, and is based on historical  
24 information that they got out of the website. How reliable  
25 that information is, is the primary task of the jury. And

1 they are saying that they can peg specific actions were taken  
2 on the website, based on electronic data that was taken from  
3 the website, and connect that to Mr. Chase.

4           However, as Your Honor may be aware from the  
5 motions, the Government had considerable difficulty  
6 identifying who was using the website; what kind of data was  
7 going out; and what volume; and all kinds of very basic things  
8 while they themselves were running it, which was not  
9 historical information. That was information they were  
10 getting in real time.

11           So I think that is very important for the jury to  
12 understand that this data is not necessarily clean cut and  
13 it's not clear what it means. And there's difficulties in how  
14 it's retained and what it means. And you can see that because  
15 there are difficulties the Government had using that same data  
16 or even figuring it out while they themselves were running the  
17 website.

18           So I agree whether the Government's actions were  
19 legal or not legal, whether they were proper or improper is no  
20 business of the jury's. But I think it is important for the  
21 jury to realize that reliability of the data is the key  
22 question here. And if the Government could not get reliable  
23 data while they were running the websites themselves, that's  
24 something the jury needs to weigh when they were looking at  
25 the data that they found before they got there.

1           So I think relevance is clear. And relevance is not  
2 a high standard. It's just a -- does it make it -- could it  
3 influence the jury one way or the other as far as the decision  
4 making? Is it a fact that could play into their calculus? We  
5 don't have to prove anything by any particular standard.

6           So then the question becomes whether it's  
7 prejudicial to the Government. And look, Judge, in their  
8 response to my motion to dismiss the Government basically said  
9 that this is no different than what they do in lots of  
10 different kinds of cases and lots of different kinds of  
11 context.

12           The Courts, and I believe the public, give the  
13 Government considerable deference in how they run  
14 investigations. And what it comes down to is the Government  
15 saying to exclude this evidence. That if the jury hears that  
16 the Government ran the website for two weeks they're going to  
17 be so outraged that they're going to set Mr. Chase free even  
18 if they believe he's guilty. I don't know that anybody  
19 believes that.

20           I think juries are very deferential to the  
21 Government. I think they can be properly instructed on it,  
22 what purposes to make of it or not. And, frankly, we can voir  
23 dire on it if we need to. To say that there was a period of  
24 time when the Government ran the website in order to catch  
25 more persons involved in child pornography and see if that's

1 something that would make them -- cause them to be unfair to  
2 the Government or Mr. Chase. I don't think it would be.

3 So I think the proof is what the Government said.  
4 They believe they did everything right. They believe those  
5 are the decisions they're entitled to make. And I think, in  
6 general, people understand what an undercover operation is.

7 So I may have a personal opinion about it, but I  
8 don't think the jurors are -- I don't think there's a serious  
9 risk that the jurors will be so prejudiced against the  
10 Government because of what they did in this case that that's  
11 going to affect their decision.

12 THE COURT: We'll hear from the Government on that.

13 MR. JONES: Briefly, Your Honor. Reggie Jones on  
14 behalf of the United States.

15 Your Honor, all the data that the defendant is  
16 referring to occurred subsequent to the defendant's --  
17 defendant being identified and arrested, Your Honor.

18 The Defendant Steven Chase was identified and  
19 arrested prior to the Government's operation of its website,  
20 Your Honor. And, therefore, any mention of evidence or  
21 discussion regarding the website is totally unrelated to any  
22 conduct which the defendant's being prosecuted here today,  
23 Your Honor.

24 Like I said, Your Honor, the defendant created this  
25 website, had been running it six months prior to being

1 identified by the Government. You know, once he was  
2 identified and arrested, it was subsequent to that when the  
3 Government took over the website in order to identify other  
4 child pornography users who operated on the website, Your  
5 Honor. And under 402 irrelevant evidence is not admissible,  
6 Your Honor. And so, evidence of the Government's subsequent  
7 operation or any data contained therein does not help or  
8 assist a jury in deciding any issue affected in this case,  
9 Your Honor. And, therefore, the United States admits [sic]  
10 that it is irrelevant and it should be admissible [sic] under  
11 402, Your Honor.

12 Even just briefly, even going a step further, Your  
13 Honor, in addressing the defendant's prejudice argument, Your  
14 Honor, even under 403 --

15 THE COURT: Now -- the Court Reporter said that,  
16 "therefore the United States admits it's irrelevant," and I  
17 think you probably meant or said "submits it's irrelevant."

18 And she reports that -- this is of course  
19 extemporaneous -- "and should be admissible." I think you  
20 possibly meant or were saying --

21 MR. JONES: Should be inadmissible. I'm sorry, Your  
22 Honor, if I said admissible.

23 THE COURT: I just wanted to make that clear.

24 MR. JONES: Yes, for the record, inadmissible, Your  
25 Honor.



1           THE COURT: So you have to slow down a little bit so  
2 she can actually get what you're saying.

3           MR. JONES: Will do.

4           THE COURT: And not the opposite of.

5           MR. JONES: I apologize for that.

6           Yes, Your Honor, the Government believes that any  
7 evidence of the operation is irrelevant and it should be  
8 inadmissible throughout the course of this trial.

9           THE COURT: Right.

10          Well, the defendant has shown a possible pathway  
11 where the evidence might be relevant to the extent it's  
12 necessary to, in effect, separate the evidence that comes from  
13 before and after the arrest cleanly, given that the Government  
14 is evidently relying on some evidence post arrest.

15          MR. JONES: Your Honor --

16          THE COURT: Now, however, the evidence in raw form  
17 is irrelevant because it relates to investigatory  
18 after-the-fact activity by the Government. So I will grant  
19 the motion and say that the parties will not be allowed to go  
20 into that or bring it up until the Court determines there's a  
21 foundation for it.

22          So in the course of examining witnesses, however,  
23 it's obvious to the Court that defendant would be allowed to  
24 talk to computer witnesses, for example, about some clean  
25 dividing line between evidence for which the defendant might

1 be culpable or not. But nevertheless, I ask you to avoid the  
2 idea that the Government was running this website for the  
3 purpose of apprehending others who might be involved until the  
4 Court can determine that -- the prejudice which would be  
5 present is overridden by the relevant factors.

6 MR. JONES: Thank you, Your Honor.

7 THE COURT: Now, in terms of sentencing, generally,  
8 as is the norm in criminal cases, I would ask the parties to  
9 avoid any reference to the length of sentence as such.  
10 Ordinarily, in argument parties may rely on how serious a case  
11 it is or how important it is to the defendant, and that's as  
12 far as I would say it could go.

13 MR. ADOLF: Judge, just to -- briefly, to address  
14 the previous motion so I understand the Court's ruling.

15 If I feel that there is a time when it's necessary  
16 to question about the Government's operation of the website  
17 I'll ask for a sidebar and make an offer of proof as to why I  
18 think at that point it's relevant.

19 THE COURT: That would be a good idea.

20 MR. ADOLF: And so we won't discuss that in opening,  
21 obviously, as per the Court's ruling.

22 But just so the Court is aware of where it may go,  
23 the other aspect that might be relevant to the defense as far  
24 as the Government running the website afterwards, is that Your  
25 Honor is aware that the Government -- the reason they ran the

1 website was because they were able -- once they had the  
2 website they were able to hack the computers of any users to  
3 discover where they were, because they otherwise couldn't  
4 figure that out.

5           And it may be that we raise the defense that the  
6 same thing was done to Mr. Chase, just not by the Government.  
7 Because these are tools that, in general, are used by  
8 criminals, people to get people's personal information for the  
9 purpose of identity theft and things of that nature. And the  
10 Government used the same kind of tool, and there are aspects  
11 to what the Government did, such to the fact that it's  
12 possible to deploy that kind of software and not leave a trace  
13 on the target computer, which is what they testified to in  
14 prior related cases here.

15           So it may be that if what we end up talking about is  
16 the fact that Mr. Chase's computer may have been hacked and  
17 that may be reflected in the evidence that we have on that  
18 server, which would go directly to whether he committed the  
19 charged acts or not. It may be important to get the jury to  
20 understand this can happen. That if you click on a link on a  
21 website that's controlled by people who are trying to hack  
22 you, they can actually get information off your computer and  
23 leave no trace of it because that's what the Government did  
24 when they ran the website.

25           So that may be important to a potential defense that

1 it was someone else either controlling his computer or that  
2 someone else got information necessary to pose as him,  
3 basically, using the same kind of tool the Government used in  
4 this case.

5 So that's why when that comes up, for instance, if  
6 they have an expert on the stand who is involved in that I may  
7 be asking him about how that works so they can show the jury  
8 that this is, in fact, possible. The jury can understand what  
9 goes on, on the internet.

10 THE COURT: I understand, I believe, your argument.

11 MR. ADOLF: Thank you, Your Honor.

12 MS. RANDALL: Your Honor --

13 THE COURT: And I would simply comment that it's  
14 always difficult to separate out evidence -- it may be  
15 something that seems easy on paper but it's not as easy in  
16 trial. Consequently, it would be important to hear you fully  
17 on that when the subject comes up.

18 MR. ADOLF: Thank you, Your Honor.

19 THE COURT: But you understand -- we have the  
20 prohibition on these areas as of now.

21 MR. ADOLF: Yes, Your Honor. We will definitely  
22 address those with the Court before contemplating addressing  
23 them with the jury.

24 THE COURT: All right, sir. Thank you.

25 MR. JONES: Thank you, Your Honor.

1           THE COURT: All right. Now, anything further before  
2 we bring the jury up?

3           MS. RANDALL: Your Honor, the only other  
4 outstanding -- I guess it's more of a notice than instead of a  
5 motion. You may need to, you know, just wait to hear the  
6 evidence. The government filed a notice of intent to offer  
7 evidence found in the defendant's residence which was in  
8 Florida, and we offered it up as intrinsic to the actual crime  
9 charged because it goes to showing the identification of the  
10 defendant and his motive and his modus operandi and all that.  
11 But alternative theories of it being admissible under Rule 414  
12 as well as 404(b). So I don't know if Mr. Adolf wanted to be  
13 heard on that.

14           MR. ADOLF: Judge, frankly, all I understood from  
15 that motion was that they're trying to admit the electronic  
16 evidence that was found in Mr. Chase's residence, such as  
17 there was a hard drive that had -- or a thumb drive or  
18 something that had child pornography on it.

19           I really don't have a -- I don't think I really have  
20 an objection -- well, I don't think I have a solid ground to  
21 object to that, particularly since he's charged with  
22 possession of that same child pornography so -- as long as  
23 that's what we're talking about, which is what I understood  
24 from the motion, I don't really think I have a basis to object  
25 to that.

1 THE COURT: All right.

2 MS. RANDALL: That's correct, Your Honor. It would  
3 be the evidence that was recovered -- the electronic evidence  
4 recovered from his house and the forensic examination of those  
5 items on what we found.

6 THE COURT: All right. Thank you.

7 MR. JONES: Thank you, Your Honor.

8 THE COURT: May we have the jury, please.

9 THE DEPUTY CLERK: Yes, sir.

10 (Jury voir dire is in a separate volume.)

11 (The jury is not present.)

12 THE COURT: Anything for the Court before we recess  
13 for lunch?

14 MS. RANDALL: Just briefly, Your Honor. I can't  
15 remember in your introductory instructions to the jury about  
16 whether there is something in there about not looking online  
17 or doing any online research. Just because this case had  
18 received some media attention. I think at some point before  
19 they leave for the evening, just if you can instruct them  
20 don't look online --

21 THE COURT: They will be instructed plentifully.  
22 And that is the -- not only the FJC, the Federal Judicial  
23 Center command, really, but it's supported by empirical  
24 evidence, and we would absolutely cover that and hope it  
25 takes.

1 MR. JONES: Thank you, Your Honor.

2 MS. RANDALL: Thank you, Your Honor.

3 (Lunch recess.)

4 THE COURT: Fifteen minutes satisfactory for opening  
5 statements?

6 ALL COUNSEL: Yes, Your Honor.

7 THE COURT: Now, folks, we are going to bring in the  
8 jury and give them the preliminary jury instructions after  
9 they are impaneled.

10 Ready to move along?

11 MR. ADOLF: Just missing the defendant, Your Honor.

12 THE COURT: Beg your pardon?

13 MR. ADOLF: We're still waiting for the defendant.

14 THE COURT: Sure do. Thank you.

15 (The defendant is present.)

16 We will call for the jury, please.

17 (The jury was returned to the courtroom.)

18 THE COURT: Okay. Welcome back, members of the  
19 jury. It appears that you're all settled and let's now  
20 undertake the preliminary jury instructions. But first I'll  
21 ask the clerk to please impanel the jury.

22 (Twelve jurors and four alternates were selected and  
23 passed by the Government and the Defendant. All 16 jurors  
24 were duly impaneled.)

25 THE COURT: Thank you, Madam Clerk.

1           Now, members of the jury, I give you these  
2 preliminary instructions to guide you in your participation in  
3 the trial.

4           It will be your duty to decide from the evidence  
5 what the facts are. You and you alone are the judges of the  
6 facts. And you will apply to those facts that you find from  
7 the evidence, the law as the Court will give it to you. And  
8 the Court refers to the presiding judge. You must follow that  
9 law whether you agree with it or not. And that of course  
10 assures that we all abide by the same law.

11           Nothing the Court may say or do during the course of  
12 the trial is intended to indicate or should be taken by you as  
13 indicating what your verdict should be. The evidence from  
14 which you will find the facts will consist of testimony of the  
15 witnesses, the documents and other things received into the  
16 record as exhibits, including any exhibit such as photographs  
17 or videos and that sort of thing. And the evidence also  
18 consists of any facts the lawyers may agree or stipulate to or  
19 that the Court may instruct you to find.

20           Certain things on the other hand are not evidence  
21 and must not be considered by you in arriving at your verdict.

22           First of all, the statements, the arguments, and the  
23 questions by the lawyers are not evidence. So you have to  
24 make a distinction in your mind between what is said from the  
25 witness stand which is evidence and that which is said by



1 counsel which is not.

2           Objections to questions are not evidence. The  
3 lawyers have an obligation to their respective clients to make  
4 objection if they think some piece of evidence may be improper  
5 under the rules of evidence. You should not be influenced by  
6 the objection or by the Court's ruling on it. If you are  
7 instructed that some item of evidence is received for a  
8 limited purpose only, you must follow that instruction.

9           Testimony that the Court excludes and tells you to  
10 disregard is not evidence.

11           Anything you may have seen or heard outside the  
12 courtroom is not evidence and must be disregarded. You are to  
13 decide the case solely on the evidence presented here in the  
14 courtroom.

15           There are two kinds of evidence it is sometimes  
16 said; direct and circumstantial. Direct evidence is direct  
17 proof of a fact such as testimony of an eyewitness.  
18 Circumstantial evidence is proof of facts on which you may  
19 infer or conclude that other facts exist. I'll give you other  
20 instructions on this and other matters at the end of the case,  
21 but keep in mind you may consider both kinds of evidence on an  
22 equal footing.

23           It will be up to you to decide which witnesses to  
24 believe, which witnesses not to believe, or how much of any  
25 witness's testimony to accept or reject. I'll give you other

1 guidelines for determining credibility of witnesses at the end  
2 of the case.

3           Now as you've been told, this is a criminal case and  
4 there are three basic rules about criminal cases that you must  
5 keep in mind. And these are all pretty much identical to what  
6 you would find in state court. In other words, throughout the  
7 country these are basic rules for criminal cases.

8           First, the defendant is presumed innocent until  
9 proven guilty. The indictment brought by the Government  
10 against the defendant is only an accusation and nothing more.  
11 It is not proof of guilt or anything else. The defendant  
12 therefore starts out with a clean slate.

13           Second, the burden of proof is on the Government  
14 until the very end of the case. The defendant has no burden  
15 to prove his innocence or to present any evidence or to  
16 testify. And since he has that right to remain silent, the  
17 law prohibits you from arriving at your verdict by considering  
18 that he may not have testified.

19           Third, the Government must prove the defendant's  
20 guilt beyond a reasonable doubt on a given charge before there  
21 could be a conviction on that charge.

22           I'll give you other further instructions on this  
23 point later, but bear in mind that in this respect a criminal  
24 case is different from that in a civil case.

25           Now in this case the charges are set forth in a

1 document called "Second Superseding Bill of Indictment." And  
2 I will read to you the charges. And I remind you that as I  
3 said just a moment ago, the charges are not evidence and  
4 they're not any evidence of guilt or anything else. It's only  
5 an accusation which puts the matter before you for a decision  
6 at the appropriate time.

7 Now, Count One has been called the "Enterprise  
8 Count." And it alleges that on or about August 19, 2014 and  
9 March 4, 2015, in Caldwell County, within the Western District  
10 and elsewhere, that Steven W. Chase, Michael Fluckiger, and  
11 David Lynn Browning did knowingly engage in a child  
12 exploitation enterprise, that is, those three individuals are  
13 alleged to have violated Section 110 of Title 18 of the United  
14 States Code as a part of a series of felony violations  
15 constituting three or more separate incidents and involving  
16 more than one minor victim, which offenses include those  
17 described in Counts Three through Thirteen of this indictment  
18 incorporated herein, and committed those offenses in concert  
19 with three or more other persons.

20 And all of this would be in violation of Title 18,  
21 United States Code Section 2252A(g).

22 Now, of course you'll have a copy of this Bill of  
23 Indictment with you in the jury room when you deliberate so  
24 that you won't need to try to memorize these charges in any  
25 detail now. And you've been given notepads and you're free to

1 use those for any particular purpose as you see fit.

2           Now Count Two alleges that between on or about  
3 August 19, 2014 and March 4, 2015, in Caldwell County, within  
4 the Western District of North Carolina and elsewhere, that  
5 Steven W. Chase, and Michael Fluckiger, and David Lynn  
6 Browning did knowingly conspire to make, print, and publish,  
7 and cause to be made, printed, and published, any notice and  
8 advertisement seeking and offering to receive, exchange, buy,  
9 produce, display, distribute, and reproduce, any visual  
10 depiction, the production of which visual depiction involved  
11 the use of a minor engaging in sexually explicit conduct and  
12 such visual depiction was of such conduct; and participation  
13 in any act of sexually explicit conduct by and with any minor  
14 for the purpose of producing a visual depiction of such  
15 conduct; knowing and having reason to know that such notice  
16 and advertisement would be transported using any means and  
17 facility of interstate and foreign commerce and in and  
18 affecting interstate and foreign commerce by any means,  
19 including by computer, and such notice of advertisement was  
20 transported using any means and facility of interstate and  
21 foreign commerce and in and affecting interstate or foreign  
22 commerce by any means, including by computer.

23           That may sound like a mouthful, and it is, but you  
24 will have explicit instructions given to you at the end of the  
25 case that breaks down these counts by separate elements that

1 will be presented to the jury for their consideration. And  
2 the burden on the Government will be to prove beyond a  
3 reasonable doubt the elements of each offense on the charge  
4 against this defendant.

5 Now, Count Three alleges that between on or about  
6 August 19, 2014 and March 4, 2015, in Caldwell County, within  
7 the Western District of North Carolina and elsewhere, that the  
8 same three individuals I read out before including the  
9 defendant, did knowingly make, print, and publish, and cause  
10 to be made, printed, and published, any notice and  
11 advertisement seeking and offering to receive, exchange, buy,  
12 produce, display, distribute, and reproduce, any visual  
13 depiction, the production of which visual depiction involved  
14 the use of a minor engaging in sexually explicit conduct and  
15 such visual depiction was of such conduct; and participation  
16 in any act of sexually explicit conduct by and with any minor  
17 for the purpose of producing a visual depiction of such  
18 conduct; knowing and having reason to know that such notice  
19 and advertisement would be transported using any means and  
20 facility of interstate and foreign commerce and in and  
21 affecting interstate and foreign commerce by any means,  
22 including by computer, and such notice and advertisement was  
23 transported using any means and facility of interstate and  
24 foreign commerce and in and affecting interstate and foreign  
25 commerce by any means, including by computer.

1           That is alleged in violation of Section 2251(d) of  
2 Title 18.

3           Count Four is brought against Mr. Chase alone, and  
4 it alleges that on or about February 1, 2015, in Caldwell  
5 County, within the Western District of North Carolina and  
6 elsewhere, Steven W. Chase knowingly transported and shipped,  
7 using any means and facility of interstate and foreign  
8 commerce, and in and affecting interstate and foreign commerce  
9 by any means, including by computer, any child pornography, as  
10 defined in Title 18 U.S. Code Section 2256(8)(A).

11           All in violation of Title 18 U.S. Code Section  
12 2252A(a)(1).

13           Now, I believe Count Five, then, alleges the same  
14 offense as Four against Mr. Chase, but it alleges that it  
15 occurred on October 12, 2014.

16           And, likewise, Count Six, again, the same basic  
17 charge against this defendant but alleging that the date,  
18 again in Caldwell County was on or about September 26, 2014.

19           Count Seven alleges that between on or about  
20 August 19, 2014 and February 17, 2015, in Caldwell County,  
21 within the Western District of North Carolina and elsewhere,  
22 Steven W. Chase knowingly possessed any film, videotape,  
23 computer disk, and any other material that contained an image  
24 of child pornography, as defined in Title 18, U.S. Code,  
25 Section 2256(8)(A), that involved a minor who had not attained

1 12 years of age, and that has been mailed, and shipped, and  
2 transported using any means of interstate and foreign  
3 commerce, in and affecting interstate and foreign commerce by  
4 any means, including by computer, and that was produced using  
5 materials that have been mailed, shipped, and transported in  
6 and affecting interstate and foreign commerce by any means,  
7 including by computer, in violation of the same  
8 Section 2252A(a)(5)(B).

9 Now the next count alleged -- well, strike that.

10 That's the part of the indictment that pertains to  
11 our work, primarily.

12 Now a few conduct words, that is, a word or two  
13 about your conduct as jurors. This is a very important part  
14 of these preliminary instructions and I won't be giving them  
15 as such again. I may remind you of them.

16 You as jurors must decide this case based solely on  
17 the evidence presented here within the four walls of this  
18 courtroom. This means that during the trial you must not  
19 conduct any independent research about this case, the matters  
20 in this case, and the individuals or companies involved in  
21 this case.

22 In other words, you should not consult dictionaries  
23 or reference materials, search the internet, websites, or  
24 blogs, or use any other electronic tool to obtain information  
25 about this case, or to help you decide the case. Please do

1 not try to find out information from any source outside the  
2 confines of this courtroom.

3           Until you retire to deliberate you may not discuss  
4 this case with anyone even your fellow jurors. So as we take  
5 an overnight break, if someone at home should ask you about  
6 the case you would say, The Court has instructed me not to  
7 talk about it until it's over. When it is over, you may talk  
8 about it all you wish but not before then.

9           As you know, once you open the discussion about  
10 something you have other questions coming at you and then you  
11 have to be in a full blown discussion about the case. Well  
12 none of this must take place whatsoever. So just tell people  
13 if it comes up that the Judge has said I must not discuss this  
14 case until it is over.

15           So until after you retire to deliberate you may not  
16 discuss the case. But when you do deliberate, then you may  
17 begin discussing the case with your fellow jurors. But you  
18 cannot discuss the case with anyone else until you have  
19 returned a verdict and the case is at an end.

20           Now I know that many of you use cell phones,  
21 Blackberries, the internet, and other tools of technology.  
22 You must also not talk to anyone at anytime about this case or  
23 use these tools to communicate electronically with anyone  
24 about the case, this includes your family and friends. You  
25 may not communicate with anyone about the case on your cell



1 phone, through email, Blackberry, iPhone, text messaging, or  
2 on Twitter, or through any blog, or website, including  
3 Facebook, Google, My Space, LinkedIn, or You Tube. You may  
4 not use any similar technology of social media, even if I have  
5 not specifically mentioned it here.

6 I expect you will inform me at such time and as soon  
7 as you become aware of another juror's violation of these  
8 instructions. A juror who violates these instructions  
9 jeopardizes the fairness of the proceeding and a mistrial  
10 could result which would require the entire process to start  
11 over.

12 Finally, do not form any opinion until all the  
13 evidence is in. Keep an open mind until you start your  
14 deliberations at the end of the case.

15 Now, obviously we can't get all the evidence in the  
16 twinkling of an eye. It has to come in witness by witness as  
17 the witnesses are examined and cross-examined. And until  
18 you've heard all of that you haven't gotten the full story,  
19 and you haven't heard the instructions from the Court as to  
20 the law. So that's when you start making up your mind, when  
21 the case is concluded, except for deliberations, and then in  
22 deliberation with your fellow jurors you discuss the case and  
23 decide it.

24 Now, then, concerning note taking. If you want to  
25 take notes during the course of the trial you may do so, of

1 course. However, it is difficult to take detailed notes and  
2 pay attention to what the witnesses are saying at the same  
3 time. And as you know, sometimes how people are saying things  
4 and how they present themselves, body language, and so on,  
5 sometimes can be equally important to what they're actually  
6 saying. So it's important to pay attention to these  
7 witnesses.

8           So if you do take notes, be sure your note taking  
9 does not interfere with your listening to and considering all  
10 the evidence. Also, if you do take notes, do not discuss them  
11 with anyone before you begin your deliberations. Do not take  
12 your notes with you at the end of the day. Be sure to leave  
13 them either in the jury room or at your seats there in the  
14 jury box and they will be secure in either place.

15           And if you choose not to take notes, remember it's  
16 your own individual responsibility to listen carefully to the  
17 evidence. You cannot give this responsibility to someone who  
18 is taking notes. We depend on the judgment of all the members  
19 of the jury and you must remember all the evidence in the  
20 case.

21           Now, in the course of proceeding we'll go forward as  
22 follows:

23           First, the Government will have an opportunity to  
24 make an opening statement, which would simply be an outline to  
25 help you understand the evidence as it comes in.

1           Next, the defendant's attorney may but does not have  
2 to make an opening statement. Opening statements are neither  
3 evidence nor arguments.

4           The government will then present its witnesses and  
5 counsel for defendant may cross-examine them. Following the  
6 Government's case the defendant may, if he wishes, present  
7 witnesses whom the Government may cross-examine.

8           After all the evidence is in the attorneys will  
9 present their closing arguments to summarize and interpret the  
10 evidence for you. And the clerk -- or rather the Court would  
11 then instruct you as to the law and after that you would  
12 require to deliberate on your verdict.

13           Now we normally take a 15-minute break morning and  
14 afternoon, but if at any time any of you wants an additional  
15 break, just raise your hand and get the attention of the  
16 Clerk, Marshal or the Court and we'll see to it that we do  
17 that.

18           I already talked to you about what sidebars are.

19           And that concludes the Court's preliminary jury  
20 instructions to you. Please take heed of those and that will  
21 help you understand your role in the case and how you conduct  
22 yourselves.

23           Is the Government ready with opening statement?

24           MR. JONES: We are, Your Honor.

25           THE COURT: You may proceed.

1           MR. JONES: Good afternoon, ladies and gentlemen of  
2 the jury.

3           Again, my name is Reggie Jones, and I, along with my  
4 co-counsel Cortney Randall, as well as FBI Special Agent Dan  
5 Alfin, together we represent the United States in this case.

6           Ladies and gentlemen of the jury, this is a very  
7 simple, a very straightforward case, yet, it's a very, very  
8 disturbing, a very troubling case. It's a case about the  
9 defendant Steven Chase creating and running a massive global  
10 child pornography website. A website, the evidence will show,  
11 contained more than 150,000 members from all around the world  
12 dedicated to the sexual abuse of children online; children as  
13 young as toddlers.

14           Now, you ask: How does the defendant create and run  
15 this massive global child pornography website? Well, let's  
16 walk through the facts in this case and discuss how he ran it.

17           In December 2014 the FBI was provided an IP address  
18 of a child pornography website believed to be hosted in the  
19 United States. Agents were able to subsequently access this  
20 site and determine that it was being hosted at a facility in  
21 Lenoir, North Carolina. The name of this child pornography  
22 website was "PlayPen." You will hear the word "PlayPen"  
23 referred to a lot throughout the course of this trial.

24           Now PlayPen wasn't a child pornography site you  
25 could just get on the regular internet and Google to find or

1 enter a web address to find. PlayPen operated on the Tor  
2 network. Now Tor is a free downloadable software you can  
3 install on your computer. We'll refer to the Tor network as  
4 the Dark Web throughout the course of this trial.

5 Now, unlike the regular internet where our locations  
6 and web pages we access can be tracked by our internet  
7 protocol address or IP address -- and very quickly because I  
8 mentioned IP address a few minutes ago. An IP address is  
9 simply like a phone number attached to your computer. Anytime  
10 anyone accesses the regular internet, their computer is  
11 assigned an IP address by the internet service provider,  
12 whether it be TimeWarner or Comcast or any other internet  
13 provider. And for that period of time that user is the only  
14 other one on the internet with that number.

15 Now, unlike the regular internet, the Dark Web  
16 allows users to access various web pages and web sites without  
17 their IP address being able to be identified. It also allows  
18 users to be able to host various websites without the IP  
19 addresses of the website also being able to be identified.

20 So you ask me, if PlayPen operated on the Dark Web,  
21 how were agents able to access it and determine that it was  
22 being hosted at a facility in Lenoir, North Carolina. And  
23 further, how were they able to determine that Steven Chase was  
24 the individual who created and ran this child pornography  
25 website?

1 Well, thankfully, ladies and gentlemen of the jury,  
2 the website had been misconfigured. It wasn't working  
3 properly. So agents were able to access it on the regular  
4 internet.

5 Now let's talk a few minutes about how the PlayPen  
6 website operated.

7 So in order to access the site and become a member,  
8 users had to input a username and a password. An email  
9 address is also required, although it didn't have to be real.  
10 And the defendant encouraged users not to input a real email  
11 address for security purposes to evade law enforcement.

12 Once you access the site and became a member there  
13 are various sections of the site that you can access. We'll  
14 walk you through some screen shots of how the site looks so  
15 you can get a good idea of how this website was set up. Some  
16 of the sections on this website included a Toddler section, a  
17 Preteen Boy section, a Preteen Girl section, a Preteen Hard  
18 Core section, and a Kinky Fetish section. Evidence will show  
19 that users and members of the site accessed these sections to  
20 encourage and support each other regarding sexual abuse of  
21 children online.

22 The entire PlayPen child pornography -- the entire  
23 PlayPen website was dedicated to child pornography. There was  
24 no adult pornography on this website. Some of the worst of  
25 the worst material, the most egregious child pornography on

1 the site were in the spanking section, the incest section, and  
2 the toddler section. The toddler section contained more than  
3 1,300 postings by members which included images of infants and  
4 toddlers being sexually abused by adults. In total, the  
5 PlayPen child pornography website contained thousands of posts  
6 and messages, and more 100,000 images of child pornography.

7 Now let's walk through and spend a few minutes and  
8 walk through the defendant's involvement on this website.

9 Not only did the defendant create and run this  
10 website as the primary administrator of this website using the  
11 user account PlayPen, that's right, the defendant's username,  
12 the name he went by while accessing this website was the exact  
13 same name of the website. So under this username PlayPen,  
14 this defendant would approve membership, he would set up  
15 various rules of the site, and he also named various sections  
16 on this website.

17 Not only did the defendant serve as primary  
18 administrator of the site, he also chose two other  
19 individuals, two other members of the site to help him run it.  
20 And this defendant and the two other administrators he chose  
21 to help him run this site, they also chose two individual  
22 members to be global moderators. There are regular moderators  
23 on the site. Some of the duties of a moderator were to delete  
24 off-topic comments and to ban users who violated the website's  
25 rules. You will hear from one of the global moderators on

1 this website, David Lynn Browning. David Lynn Browning will  
2 testify during this trial. He'll testify that the entire  
3 PlayPen website was devoted to the advertising and the  
4 distribution of child pornography. He'll also testify about  
5 how members worked together to encourage each other in order  
6 to make sure the rules were being followed.

7 Now, not only does this defendant and other  
8 administrators and moderators he helped choose create and run  
9 the site, the defendant himself made over 200 postings to this  
10 child pornography website.

11 Now I mentioned before the website had been  
12 misconfigured. It wasn't working properly. So agents were  
13 able to access it on the regular internet in order to identify  
14 that the site was being hosted in a facility located in  
15 Lenoir, North Carolina.

16 Well this particular misconfiguration also helped  
17 agents identify the defendant as the individual who was  
18 running the site.

19 Upon finding out that the site was being hosted in  
20 North Carolina, agents took other investigative steps,  
21 including issuing of search warrants and issuing subpoenas to  
22 various internet service providers in order to put the  
23 defendant as the individual who ran the site.

24 Evidence will show that in all files contained from  
25 the server hosting the site helped agents learn that the user



1 account PlayPen had been logged into directly from the IP  
2 address assigned to the defendant's Naples, Florida, residence  
3 on two occasions in September and November 2014.

4 Evidence will also show that from the log files  
5 hosting the server, as well as other internet service provider  
6 records, agents were able to learn that the server account had  
7 been accessed from an IP address assigned to a residence in  
8 the State of Maine. A residence, the evidence will show, was  
9 the defendant's mother's residence around the winter of 2014.

10 Agents were able to subsequently learn that the  
11 defendant was in Maine during this time, based on surveillance  
12 that his car was seen at his mother's residence. You'll also  
13 hear a deputy chief from the Maine police department testify  
14 during this trial that he saw the defendant at a ski lodge in  
15 Maine during this time. And the defendant told him that he  
16 was in Maine to visit -- visiting his mother and to relax and  
17 ski.

18 Now, based on this evidence as well as other  
19 evidence, agents were able to obtain through investigatory  
20 steps, agents applied for and received a search warrant to  
21 search the defendant's Naples, Florida, home.

22 And on February 19, 2015, agents executed the search  
23 warrant on the defendant's home.

24 Upon entering the home and apprehending this  
25 defendant, agents observed a laptop logged into the PlayPen

1 website. Not only was it logged into this child pornography  
2 website, evidence will show that the laptop was logged in as  
3 the username PlayPen. Not only was this laptop logged into  
4 the child pornography website as the username PlayPen,  
5 evidence will also show that the laptop was logged into the  
6 server account hosting the website as the server  
7 administrator.

8           Additionally, evidence will show that there are  
9 various text files opened on the defendant's laptop which  
10 contained usernames and passwords to the server hosting the  
11 website's account.

12           The defendant, at this point the only occupant of  
13 the home, was arrested.

14           There were various electronic devices seized from  
15 the defendant's residence including the laptop I just  
16 mentioned, a thumb drive which was mounted into the laptop, as  
17 well as a cellular phone.

18           Evidence will show that forensic examination of  
19 these devices revealed that on the defendant's laptop that  
20 there were bookmarks. Particular bookmarks. Bookmarks, of  
21 course, as you know, allows you to get to the web pages  
22 quicker. Bookmarks for sections contained in this PlayPen  
23 child pornography website. There are also images of the  
24 PlayPen logo. Also on the laptop you will hear evidence that  
25 there were Google searches for child pornography on Netflix in

1 preteen.

2           Additionally, ladies and gentlemen of the jury, the  
3 thumb drive that I mentioned was mounted into the laptop, you  
4 will hear evidence that it contained over 8,900 images of  
5 child pornography.

6           Also, ladies and gentlemen, the cellular device that  
7 was seized contained internet searches for PlayPen, Tor, and  
8 preteen models.

9           As I close, ladies and gentlemen of the jury, one  
10 point I would like for you to remember is that oftentimes in  
11 cases such as this, a common defense tactic is to attempt to  
12 create confusion or to attempt to try a case different than  
13 the one charged in the indictment. Don't be fooled by these  
14 tactics. Evidence will show there was no one but the  
15 defendant Steven Chase who created and ran this massive global  
16 child pornography website, a website with over 150,000 members  
17 dedicated to the sexual abuse of children online.

18           One final point I would like to make, is that, in  
19 closing judge Voorhees will instruct you that in order to find  
20 the defendant guilty, the United States must prove its case  
21 beyond a reasonable doubt.

22           Now, ladies and gentlemen of the jury, proof beyond  
23 a reasonable doubt is not proof beyond all possible doubt.  
24 That's not the standard. Reason and common sense are the  
25 standards you will use as the fact finders of this case. In

1 the United States we embrace this standard, and we stand ready  
2 to prove it. And we believe after all the evidence has been  
3 presented during this trial you will find based on reason and  
4 common sense that the defendant Steven Chase is guilty. Thank  
5 you.

6 THE COURT: Mr. Adolf.

7 MR. ADOLF: Thank you, Your Honor.

8 Who is PlayPen? I'm going to boil the case down for  
9 you. This is not going to be a simple case but it is -- there  
10 are simple questions that you're here to answer. Who is  
11 PlayPen? The Government is telling you that PlayPen is one  
12 person and that it's Steven Chase. Your own eyes and from the  
13 evidence they have are going to prove to you that that could  
14 not be true. That anybody who had that username and that  
15 password -- and it had to have been more than one person, had  
16 to be a bunch of different people -- were accessing that  
17 account, were doing things on that account as PlayPen. And  
18 that's not coming from any defense tactic or anything of that  
19 nature. That's coming from what they found -- from the  
20 evidence they found.

21 We talked in voir dire about you all's experience  
22 with computers, and how some of you have social media  
23 accounts, Facebook and so forth. And the answer is -- the  
24 question is, if somebody punches in a search on your name and  
25 a Facebook profile comes up with your picture on it and your

1 name, is that you? Well, the answer is, most of the time it's  
2 you. You would hope it's you. But if someone's managed to  
3 get a hold of your username and password it could be anybody.  
4 And if somebody starts doing stuff posing as you, it's going  
5 to be awfully hard to prove that that wasn't you. What we  
6 have in this case, though, is we have evidence the Government  
7 hasn't talked about which you are going to get to hear and  
8 that is what was actually happening on the website. What that  
9 website itself recorded. You see, computers don't lie but  
10 people lie. And sometimes people use computers to lie.  
11 Sometimes people use computers to commit crimes. Sometimes  
12 people use computers to pose as other people, to make it look  
13 like they're somewhere else.

14           The Government talked a little bit about Tor. This  
15 different kind of network from the regular internet. And the  
16 entire purpose of Tor is that it allows you to go on the  
17 internet and nobody at the other end can see who you are and  
18 where you are if you're doing it right. And for people  
19 setting up websites, it allows them to set up that website so  
20 that no one can see where they are. And they don't know where  
21 the people going to the website are.

22           If you all go on Google or any other number of sites  
23 that people use every day, a lot of times you'll see a thing  
24 pop up saying, "Do you want Google to use your location?"  
25 Because that helps get better results. If you're looking for

1 a restaurant and Google can tell where you are. It can tell  
2 you the ones that are around here instead of in other states  
3 or other countries.

4           The truth is, Google doesn't really have to ask you  
5 because they know where you are. Because on the regular  
6 internet, anytime you log into somewhere, type into a website,  
7 find something on a search, your computer sends information to  
8 that website telling them exactly where you are or at least  
9 close. It might be that they'll tell you -- it will tell them  
10 what internet company you use. For instance, if you use Time  
11 Warner Cable, your internet, it might give them, say, this is  
12 coming from Time Warner Cable in a particular town. And then  
13 Time Warner Cable knows, out of those addresses that come in,  
14 who exactly that is.

15           On Tor none of that happens. That's a way that you  
16 can set it up so that there's no record made anywhere -- at  
17 least no accurate record made anywhere -- of who you are,  
18 where the website is, and what's going on in between you. And  
19 that's the whole point. Someone who's doing -- looking at  
20 child pornography or posting it or sharing it, obviously  
21 doesn't want other people to know where they are. Probably  
22 doesn't really care to know where the other people using the  
23 site are. The site doesn't want them to know. Nobody knows.  
24 And if you're doing it correctly, you can use it and none of  
25 that information is anywhere.

1           But one thing you can do is, you can -- it's not  
2 just that you can hide where you are or just leave all that  
3 information out. There are also ways that you can pretend to  
4 be somewhere else. You can actually -- if you know what  
5 you're doing, you know enough about computers -- and there are  
6 people out there who do -- you can actually make it look like  
7 you're coming from a different computer, maybe in a different  
8 state, maybe in a different country. And for people who know  
9 what they're doing and want to do that for some reason, they  
10 can do that.

11           Now, what the Government tells you is when they  
12 walked into Mr. Chase's house his computer was logged on to  
13 PlayPen as the PlayPen administrator. What they haven't  
14 mentioned to you is that -- well, let me back up.

15           At that moment they figured they had him. He's the  
16 guy running the whole site. He's the guy that started it.  
17 That's all they need. Just like if they came into your house  
18 and found you logged onto Facebook they would say, Well, I  
19 guess everything you've ever done on Facebook is you.  
20 Everything on that account is you. Well, what if at some  
21 point somebody hacked that information? What if somebody got  
22 it on some website where you went on and clicked the wrong  
23 thing? Maybe somebody saw you type in a password. Maybe  
24 looked at a post-it on your computer. There can be all kinds  
25 of things in there you don't know anything about that all of a

1 sudden looks like you did.

2           Fortunately, for Mr. Chase, there are other ways  
3 that that information gets stored. Because here's what you're  
4 going to hear that they really didn't talk much about it.

5           The Government seized that website that was here in  
6 Lenoir. That's why you all are here today because this  
7 happened in Lenoir. And they made a copy of everything on  
8 that website. Now -- or on that server, that computer, or  
9 that stack of computers in Lenoir. And what that is, is,  
10 there's a company that has thousands and thousands of computer  
11 servers they call them. But basically just computers all  
12 stacked up, wired together, where if somebody wants to start a  
13 website or have a website -- and you're a small business,  
14 you're a person you don't want to have your own whole IT  
15 department doing that for you, you just rent space from them  
16 or their server; thousands, maybe hundreds of thousands of  
17 businesses do that every day. And with this particular  
18 company there were thousands of perfectly legitimate websites  
19 running there all the time.

20           But what that means is, that website keeps a log.  
21 Keeps a log anytime somebody signs on to it, anytime anybody  
22 does anything on it, it makes a record of it.

23           Now obviously folks who ran this website or were  
24 involved with that knew that. They didn't want their  
25 information on there. So if they were doing it correctly --



1 there are ways you can do it, log on through Tor -- where when  
2 you see that log, when you pull it up as the FBI did and as  
3 you're going to get to see, there's a list of every time  
4 somebody logged in on whatever account you want. And you're  
5 going to see that if you're doing it right that log is blank.

6 And the reason it's blank, it's been set up so that  
7 it basically just does a little loop on itself. And they do  
8 some trick where it says it's coming from itself. But you get  
9 no information. You get place holders, just the same digits  
10 over and over that don't mean anything.

11 But there are different ways to get on it. And if  
12 you don't know what you're doing you can leave a trace. If  
13 you get on -- as they just talked about how the website wasn't  
14 set up quite right. There are ways to get to it from the  
15 regular internet.

16 The thing is, if you did that, then all of a sudden  
17 all of those protections, the blank entries in the log, that's  
18 not what's happening. All of a sudden where you are is  
19 revealed on this log.

20 Now, they wouldn't have had that information when  
21 they arrested Mr. Chase, but they have it now and you're going  
22 to get to see it.

23 Here's what you're going to get to see:

24 The prosecutor just talked about how they went back  
25 and looked at those logs and found that that account had been

1 logged into from Maine when Mr. Chase was up there skiing  
2 where he was staying with a relative, and from his own home at  
3 two different times in that period of whatever, five months,  
4 six months. Here's what they didn't mention to you:

5           That account, apparently, according to those logs  
6 was also logged into from Chicago, from San Francisco, from  
7 Austin, Texas, from the Netherlands. All kinds of places that  
8 Mr. Chase never was, at times when he could not have been  
9 there. You're going to find out that this account got logged  
10 into in Florida, and then in Chicago, and then Florida again,  
11 and then Chicago again, all within a couple of days. And so  
12 you would have to believe that somehow Mr. Chase is frequent  
13 flying back and forth for no reason between Chicago and  
14 Florida. But there's no evidence of that.

15           And more than that, when you start to look at those  
16 posts -- because the server doesn't just record where some  
17 action was taken from, where that other computer was, it also  
18 records what it was. And on this website people were chatting  
19 with each other, talking about things, posting things and  
20 that's all recorded. We can match up where somebody did  
21 something or where they were when they did it and what it was  
22 they did.

23           And what you're going to see is that it could not  
24 have been just one person doing it. That there are some  
25 people who are clearly not Mr. Chase. Now these people don't

1 know that they're being tracked. They had no idea that months  
2 or years later the FBI would have all that information and  
3 would be talking all about it in court. But you'll get to see  
4 some of the things they were talking about and the little bits  
5 where they give away information about themselves. And you're  
6 going to find that some of them, as I said, were different  
7 places around the country, even across the ocean in a place  
8 Mr. Chase has never been.

9 But also that some of these folks are not native  
10 born Americans. You're going to see a post from -- that was  
11 supposedly the Government, I guess, is going to say from  
12 Mr. Chase and PlayPen that isn't even in our alphabet. You're  
13 going to see posts from people talking about that English is  
14 not their first language that they're going to say is  
15 Mr. Chase. That's not him trying to cover something up.  
16 These are people who don't think anybody is listening.

17 And, in fact, you will see when you read these logs  
18 the people who worked on the site, signed into it, talked a  
19 lot about not getting caught. They were cognizant of that.  
20 They didn't think they were. They thought they had outsmarted  
21 the Government, which they obviously hadn't. But they left  
22 clues as to who they were, but they were not Mr. Chase.

23 At the end of the day, folks, Mr. Chase did log in  
24 using that username and password, and he did do some things on  
25 it, and he had the materials he had in his house. But the

1 Government has six other charges, and those are specific  
2 things that they're going to say that he did, and it's going  
3 to be clear -- in some cases it's not going to be clear who  
4 did it. We know that he was either hacked, somebody was using  
5 his information. There's no indication that he knew that was  
6 happening. There be no reason for him to go back and look.

7 But for some of that information it's really not  
8 going to be clear who did it; for some of it, it will be  
9 absolutely clear that he did not and it was other people. And  
10 that's why when this is all over -- there's no question he's  
11 done some things wrong -- but I'm going to ask you to do what  
12 we talked about in voir dire and that you promised to do.  
13 Which is to look at each individual charge, see what it is the  
14 Government is accusing him of, match that up with the evidence  
15 they have, and I think most of those charges you're going to  
16 find that it was somebody else that did it or very well might  
17 have been somebody else that did it and Mr. Chase has no way  
18 to prove otherwise.

19 So for all those reasons there's a bunch of charges  
20 when this is all done I'm going to ask you to find him not  
21 guilty. Thank you.

22 THE COURT: Thank you for those opening statements.  
23 You may call your first witness.

24 MR. JONES: Your Honor, the United States calls FBI  
25 Agent Dan O'Donnell.

1           Before we bring Dan O'Donnell in, we wanted to admit  
2 some business records, Your Honor.

3           THE COURT: Yes, sir.

4           MR. JONES: If we could, U.S. Exhibits 42 through  
5 46, the CentriLogic business records and Certificate of  
6 Authentication, the PayPal business records and Certificate of  
7 Authenticity, the Time Warner Cable business records and  
8 Certificate of Authenticity, and the Yahoo business records  
9 and Certificate of Authenticity, and Comcast business records,  
10 Your Honor, U.S. Exhibits 41 through 46 the United States  
11 requests -- oh, I'm sorry, 42 through 46. We ask that those  
12 be admitted at this time.

13           MR. ADOLF: Judge, if I could just have those  
14 exhibits up on the screen so we can review them, make sure the  
15 right ones are going into the record.

16           THE COURT: All right.

17           MS. RANDALL: Showing at this time, Your Honor,  
18 Government's Exhibit 42 and each page. I can zoom in if you  
19 need me to.

20           Government's Exhibit 43, the PayPal records.

21           Government's Exhibit 44, Time Warner Cable records.

22           Exhibit 45, Yahoo business records.

23           And Exhibit 46, which are the Comcast business  
24 records.

25           MR. JONES: Any objection?

1 MR. ADOLF: No objection, sorry.

2 THE COURT: Let them be admitted.

3 MR. JONES: Thank you, Your Honor.

4 (Government's Exhibits No. 42, 43, 44, 45 & 46 were  
5 received into evidence.)

6 DANIEL O'DONNELL, GOVERNMENT WITNESS, SWORN

7 DIRECT EXAMINATION

8 BY MR. JONES:

9 Q. Good afternoon, Agent O'Donnell.

10 A. Good afternoon.

11 Q. Please state and spell your name for the record.

12 A. Daniel E. O'Donnell. D-a-n-i-e-l. O, apostrophe,  
13 D-o-n-n-e-l-l.

14 Q. Just briefly introduce yourself to the jury.

15 A. I am a Supervisory Special Agent with the FBI.

16 Q. How long have you been a Supervisory Special Agent with  
17 the FBI?

18 A. In that capacity, just since January of this year.

19 Q. Okay. And you mentioned "that capacity." What's your  
20 current assignment?

21 A. I'm currently assigned to our critical incident response  
22 group in our behavioral analysis units.

23 Q. What are some of your duties in that unit?

24 A. So our behavioral analysis units are what are more or  
25 less referred to as our profiling units. So I'm currently

1 assigned to the unit that handles crimes against children  
2 matters. So our primary roles are to provide investigative  
3 support to our field offices, as well as signal to law  
4 enforcement in situations regarding child homicides, child  
5 abductions, cold case analysis, as well as responding to child  
6 abductions nationwide.

7 Q. Prior to this assignment -- you said you've been at this  
8 current assignment for about six months -- what was your unit  
9 where your prior -- assigned to prior?

10 A. Prior to this unit I was assigned to the violent crimes  
11 against children section in the major case coordination unit  
12 just outside of Baltimore, Maryland.

13 Q. What was your role in that unit?

14 A. My role in that unit was a case agent. The unit was  
15 primarily responsible for the investigation of large scale  
16 complex child pornography online networks that typically  
17 spanned multiple jurisdictions, both here in the U.S. as well  
18 as overseas.

19 Q. How long were you in the major case coordination unit?

20 A. Approximately six years.

21 Q. Just briefly kind of describe for the jury some of the  
22 types of offenders you've investigated over the course of the  
23 six year period there.

24 A. So the types of investigations that we primarily focused  
25 on were really a variety that were comprised of users and

1 facilitators of websites, bulletin boards, anonymous networks,  
2 peer-to-peer technologies, as well as chat messaging, emails,  
3 and other venues and platforms that utilize the internet to  
4 facilitate child pornography.

5 Q. Okay. Did you also conduct any undercover investigation  
6 during your time at MCCU?

7 A. Yes.

8 Q. Just briefly for the jury, what exactly is an undercover  
9 session? What does that entail?

10 A. So we make a decision between undercover operations and  
11 undercover sessions. An undercover operation would comprise  
12 the entire investigative operation. Whereas an undercover  
13 session is just a piece of that. So one undercover operation  
14 could have a multitude of undercover sessions.

15 An undercover session could be anything from preserving  
16 data on a website, to screen capture, downloading data,  
17 preserving text, in addition to creating undercover accounts,  
18 or through consent of other users, assuming their online  
19 identities, as well as directly communicating with others,  
20 subjects and users of the particular platforms.

21 Q. Did you receive any training in how to conduct undercover  
22 sessions?

23 A. Yes. Prior to conducting any online undercover activity  
24 the bureau requires that you complete the online undercover  
25 certification course, which I did. Then there are several



1   approvals that also occur after that. As well as other  
2   training related to computer networks, online child  
3   pornography investigations, evidence collection, peer-to-peer  
4   technologies, and undercover operations themselves.

5   Q.   And over the course of your career with the FBI, just --  
6   if you may quantify -- how many undercover sessions you have  
7   been involved in.

8   A.   I wouldn't have an exact number.

9   Q.   Okay.

10   A.   But it can easily be in the hundreds.

11   Q.   Okay. Have any of these undercover sessions involved the  
12   Tor network?

13   A.   Yes.

14   Q.   And just briefly, for the jury, just describe what the  
15   Tor network is.

16   A.   So the Tor network is essentially a collection of  
17   volunteer computers, thousands of computers and servers all  
18   over the world that utilize the internet to promote anonymity  
19   while browsing the internet online.

20           THE COURT: How do you spell Tor?

21           THE WITNESS: I'm sorry t-o-r. It's short for the  
22   Onion Router.

23   Q.   Is Tor popular among child pornography offenders?

24   A.   Yes.

25   Q.   Why is that?

1 A. The primary purpose of Tor, as opposed to let's say the  
2 regular internet, is to hide certain identifying or potential  
3 identifying information with a particular user's computer.  
4 And that's to hide from the general public as well as law  
5 enforcement. So that typical law enforcement investigative  
6 techniques don't normally -- can't be used in that sense.

7 Q. Is there a name that, I guess, maybe the general media  
8 refers to when referring to Tor?

9 A. Yes, it's -- there are multiple anonymous networks that  
10 utilize the internet, but primarily it's Tor that most people  
11 are referring to. And you'll see -- and these articles and  
12 other media outlets are being referred to as the Dark Web or  
13 the Dark Net.

14 Q. How much time have you spent, just approximately of  
15 course, you know, investigating Tor, Tor websites, Dark Web  
16 websites?

17 A. I would say from about a three year period from 2013 to  
18 2015 was probably 75 percent of my time.

19 Q. All right. I'll just switch gears just a bit and ask you  
20 about some of your training.

21 So just starting off, would you talk with us a few  
22 minutes or shortly, briefly, about some of the training that  
23 you've been involved in when it comes to online crimes as a  
24 student?

25 A. Correct.

1 Q. Yeah.

2 A. So in addition to the online undercover course, I've been  
3 trained in various peer-to-peer technologies. I'm an  
4 instructor for certain of those venues. I've been trained in  
5 online evidence preservation, collection, image previews, as  
6 well as attending various conferences and seminars and other  
7 web-based training, in addition to working with agents with  
8 computer science backgrounds, cyber backgrounds, and just the  
9 experiences of conducting investigations themselves.

10 Q. What about trainings that you have served in as in -- or  
11 in a instructor capacity?

12 A. So I've trained law enforcement, both here in the United  
13 States as well as overseas, in various peer-to-peer platforms,  
14 general online undercover activities relating to child  
15 pornography, image previews, and evidence preservation.

16 Q. Have you testified -- presented testimony in the court  
17 before regarding online child pornography defendants?

18 A. Yes.

19 Q. What sort of technologies have you testified in regards  
20 to?

21 A. In regards to the Tor network, other websites, social  
22 networking sites, and peer-to-peer type technologies.

23 Q. What about in federal district courts?

24 A. Those were all federal courts.

25 Q. Okay. We talked about your current position and your

1 time at MCCU. What about some of the other experiences you've  
2 had as an FBI Special Agent.

3 A. Prior to the MCCU I was assigned to the Philadelphia  
4 division in the Fort Washington Resident Agency where I was  
5 primarily assigned white collar crime and violent crime.

6 Q. Where were you employed prior to the FBI?

7 A. I was employed both at KPMG and Arthur Andersen.

8 Q. And just briefly give us just a brief background of your  
9 education.

10 A. I have a Bachelor's degree in business, a Bachelor's  
11 degree in psychology, and a Master's degree in accounting.

12 Q. Okay. Agent O'Donnell, are you familiar with the  
13 operation of computers, the internet, Tor, the Tor network,  
14 and Tor internet services?

15 A. Yes.

16 Q. Are you also familiar with the methods, tactics,  
17 technologies, and terminologies used by offenders who produce  
18 and traffic child pornography over the internet, including  
19 over the Dark Web or Tor network.

20 A. Yes.

21 Q. Are you familiar with the names and content of websites  
22 used to traffic child pornography over the internet, including  
23 those on the Dark Web or Tor network?

24 A. Yes.

25 Q. Why is it important to understand and know some of

1 those -- that terminology?

2 A. Simply for the investigative value in itself of knowing  
3 how the material is trafficked, where to find it, how to  
4 engage in undercover operative, as well as issuing legal  
5 process, and the ability to identify subjects, as well as  
6 victims.

7 Q. How do you stay current on that knowledge?

8 A. I'm sorry?

9 Q. How do you stay current on that knowledge?

10 A. Through the investigations themselves, as well as  
11 periodic training in conferences that I've attended over the  
12 years.

13 MR. JONES: Your Honor, at this time the United  
14 States will seek to admit Special Agent Dan O'Donnell as an  
15 expert in the methods and tactics used by online child  
16 pornography defenders in investigation of online child  
17 pornography offenders.

18 MR. ADOLF: Judge, I have no problem admitting him  
19 as an expert on the computer systems involved. But as to the  
20 behavior of child pornography offenders, I do object to that.  
21 I think that that investigation reveals what it reveals but  
22 that has no bearing on the issues here.

23 THE COURT: He will be declared an expert in the  
24 area of computer technology.

25 Members of the jury, when someone is declared an

1 expert, that simply means that that witness is able to express  
2 opinions within the area of expertise. Ordinarily, in a case  
3 the jury is able to rely on their own background and wits and  
4 their information about the opinions of witnesses on factual  
5 matters. But when it comes to technical matters, sometimes  
6 it's necessary to take testimony from someone who is declared  
7 an expert. This person has given testimony about his  
8 background which would be sufficient for that category.

9           However, it's up to the jury to decide whether his  
10 opinions, if any, are based on sufficient information, and  
11 background, and education, and experience, for you to accept  
12 or reject the opinions which you may then do as you would that  
13 of any other witness.

14 Q. Agent O'Donnell, let's talk a few minutes about  
15 investigating websites. What are the general steps involved  
16 when law enforcement investigates a crime that occurred over  
17 the internet?

18 A. It can depend on the type of activity and the type of  
19 platform that's being used. Let's say in a website  
20 investigation there are multiple steps we would take,  
21 including accessing the website itself, determining what we  
22 might be able to view or download such as text, images,  
23 videos, that sort of content; determining the users of that  
24 website, the administrators, potentially creating undercover  
25 accounts; issuing various legal process, whether it's

1 subpoenas, court orders, or search warrants. In addition to  
2 attempting to identify where the physical location of the  
3 servers that are hosting those websites are actually located.

4 Q. You mentioned subpoenas and search warrants. What other  
5 information in regards to websites do you obtain from  
6 subpoenas and search warrants?

7 A. In addition to the content itself there's a potential to  
8 obtain information related to the actual users of the site.  
9 Typically what we would be looking for would be IP addresses,  
10 dates and times of particular activity, whether connecting to  
11 the website or actually posting material to that website.

12 Through those IP addresses there's a potential through  
13 search warrants and other legal process that we might be able  
14 to obtain further user information behind those IP addresses.

15 Q. How do those IP addresses, and server logs, and activity  
16 logs, how are they useful in a criminal investigation?

17 A. So in order for a computer to communicate with another  
18 computer online, it must be assigned an IP address. It's  
19 easiest to think about it similar to a phone number. In order  
20 to complete a phone call, your phone has to have a phone  
21 number assigned to it, the person you're calling has to have a  
22 phone number assigned to. It's similar with computers.

23 So identifying those IP addresses and the dates and times  
24 that those IP addresses were used, in the normal course of  
25 business records, many internet service providers such as

1 Comcast or Time Warner would keep basic subscriber information  
2 that we may be able to obtain through court orders and  
3 subpoenas.

4 Q. Just briefly explain to the jury what is -- what is an  
5 internet service provider?

6 A. Internet service provider is really just a company that  
7 specializes in providing customers access to the internet.  
8 Comcast, Time Warner, are probably the two biggest cost  
9 communications. In most cases you pay them a monthly premium  
10 or a monthly fee and they provide access to the internet,  
11 through either cable lines or WiFi and/or satellite.

12 Q. If you -- internet service providers like Comcast and  
13 Time Warner -- do they keep records with IP addresses assigned  
14 to what customer at a particular time?

15 A. It can vary on the internet service provider but, in  
16 general, yes.

17 Q. You talked a few minutes ago about shifting gears in  
18 regards to Tor and the Dark Web and you gave the jury an  
19 explanation of what Tor was.

20 Just briefly, again, just explain what Tor of the Dark  
21 Web allows a user to do.

22 A. So in comparing it to a regular internet connection, if  
23 the user were to -- through account access provided by their  
24 internet service provider -- utilize a computer through a web  
25 browser, which is a specialized software that allows people to



1 access the worldwide web. The most common web browsers are  
2 Explorer, Firefox, Safari that most people are familiar with.

3 In the regular internet you request -- you open up your  
4 browser. You send a request to a particular website, say  
5 Yahoo.com, and you request to send along with certain  
6 identifying information relating specifically to your  
7 computer. So your IP address, the date and time your request  
8 was sent, the web browser, and the type of request itself. So  
9 that is -- when Yahoo receives that information it can process  
10 it and it knows where to send the information back to.

11 With the Tor network, as opposed to going straight to  
12 Yahoo, your request, your data is actually routed through a  
13 series of -- a random series of computers that are also  
14 referred to as nodes. And none of those nodes know the full  
15 path. So by the time your data reaches Yahoo, Yahoo can only  
16 recognize information relating to that last node. So it  
17 processes it and it sends it back to that last computer, that  
18 last node, and the network facilitates the data back to your  
19 computer.

20 In that scenario, Yahoo or anyone on that end would not  
21 know the identifying information related to the actual  
22 original computer that made that request.

23 Q. Is Tor or accessing the Dark Web, is that illegal?

24 A. No, it's not.

25 Q. Is it part of the internet?

1 A. It's a network protocol that utilizes the internet, yes.

2 Q. How do you get information about the Dark Web? How would  
3 you do so?

4 A. There's a variety of websites out there that provide  
5 information. There's the Tor project itself that if you were  
6 to go to their website they describe the network in detail and  
7 what's necessary to access it.

8 Q. Are there websites on the Dark Web?

9 A. Yes, there are websites within the Tor network,  
10 specifically, that are referred to as "hidden services." And  
11 the reason they're referred to in that way is similar to the  
12 user's identity being hidden. Those websites for those hidden  
13 services, the actual physical location of where those services  
14 are located is also hidden by the network.

15 Q. And so how does a hidden service differ from a regular  
16 website name?

17 When you see a CNN.com, for example, how does a CNN.com  
18 on the regular internet, how does it differ from that site on  
19 the Tor network?

20 A. With a website like CNN.com, law enforcement or even the  
21 general public would be able to -- utilizing certain public  
22 databases -- be able to look up the actual IP address or IP  
23 addresses where that website is currently being hosted. And  
24 in that case we could take further investigative steps to try  
25 to obtain content.

1           In the case of hidden services, we're not able to see  
2   those IP addresses. So we have no way of, at that point,  
3   being able to determine where that physical location is or  
4   where to even send legal process to.

5   Q.   How has the Dark Web impacted child pornography  
6   investigations?

7   A.   It's made it difficult since typical traditional law  
8   enforcement techniques don't normally work.

9   Q.   Agent O'Donnell, how do you find a hidden service on the  
10   Tor network or the Dark Web?

11   A.   There can be a variety of ways. One of the most common  
12   is, there are other hidden services referred to as "hidden  
13   wikis" that are essentially indexes or websites that contain  
14   descriptions and links to other hidden services. There's a  
15   specific hidden wiki page known as "Hard Candy" that is  
16   primarily dedicated to listing hidden services that facilitate  
17   child pornography and child erotica. That's one of the  
18   primary ways of being able to find it. There's also others,  
19   websites or hidden services, links to those can be posted on  
20   other hidden services, users can email them back to each  
21   other. There's really a multitude of ways, but the "Hard  
22   Candy" is one of the primary ones.

23   Q.   Let's switch gears to the investigation of the PlayPen  
24   child pornography website.

25           Did you participate in the investigation of the PlayPen

1 website?

2 A. Yes.

3 Q. Just briefly, for the jury, how familiar are you of the  
4 site?

5 A. I would say very familiar.

6 Q. Did you document it -- did you document any undercover  
7 sessions regarding this site?

8 A. Yes.

9 Q. How -- what way did you go about documenting undercover  
10 session?

11 A. So I utilize multiple screen capture, video capture  
12 software programs. And when I say "screen capture" I'm simply  
13 referring to programs that allow you to basically take a  
14 picture or record a video of what's showing on your computer  
15 screen.

16 I've accessed the site on multiple occasions. I created  
17 undercover accounts, downloaded certain data from that site.  
18 I've also assumed, with consent of other users, their online  
19 identities on that site as well.

20 Q. Just briefly, what was PlayPen?

21 A. PlayPen was a Tor hidden service that was a website  
22 established in the -- or a bulletin board or a forum type  
23 format. A bulletin board is simply a website that allows  
24 different forums or sections on the site. And within those  
25 sections, users or administrators can create threads of

1 various topics. And within those threads, users can make  
2 posts. Those posts can contain text, they can contain images,  
3 or links to other websites.

4 And then in -- generally speaking those posts are  
5 available for view by other users. Those users would be  
6 allowed to post replies, and their replies can contain similar  
7 information of the original post.

8 And then there was also a private messaging type feature  
9 of PlayPen. Which if you wanted to communicate with another  
10 member but not do it publicly for other people to see, you  
11 could send them a private message. Which is a one-on-one  
12 communication that's similar to sending somebody an email.

13 Q. What sort of content was on the PlayPen child pornography  
14 website?

15 A. The vast majority of the site was dedicated to child  
16 pornography and child erotica.

17 Q. And what ages are we talking about?

18 A. In general, child pornography is any child under the age  
19 of 18. This website broke down the different categories from  
20 "Jailbait" which it typically referred to the teenage years of  
21 14 to 17, approximately, down to "Preteen," which was  
22 prepubescent, which was the largest section of the site. As  
23 well as even a section for "Toddlers" which generally  
24 contained child pornography and child erotica material for  
25 children under the age of two.

1 Q. Was this child pornography website open to anyone?

2 A. Not initially; users had to go to the main home page and  
3 register an account.

4 Q. Just walk briefly -- walk the jury through, briefly, how  
5 would you access the site, starting with accessing the Dark  
6 Web and just go from there.

7 A. So to access Tor -- to begin with you need a specialized  
8 web browser, similar to what I mentioned before with Firefox  
9 or Explorer. There's a certain web browser called a "Tor  
10 Browser Bundle" that's a modified version of Firefox that  
11 allows users, once it's downloaded and installed on your  
12 computer, to access that network.

13 After you've done that, then using one of the ways I  
14 mentioned earlier of finding the actual site, whether that's  
15 through the hidden wikis, communications you've had with other  
16 users, or other websites you've been on, the user would go,  
17 either copy and paste or type in the actual web address or Tor  
18 network address for that PlayPen hidden service.

19 At that point the home page would be displayed. There's  
20 various information on that home page. But in general there's  
21 a log in section for current members. So those members who  
22 have already registered an account could log in with their  
23 username and their password. If you were not a current member  
24 there was a registration section where you could click on that  
25 would direct you to a set of rules. After you agree to those

1 rules there was a section where you could enter a username and  
2 a password and an email account.

3 The email account itself did not have to be legitimate.  
4 In fact, in the sections before it, it encouraged people to  
5 not use legitimate email accounts. It was simply a function  
6 of the bulletin board software that required that in order to  
7 avoid that function.

8 After entering that information, your account would be  
9 activated, and you could review the contents of the site.

10 Q. So it's fair to say there were a number of steps you had  
11 to use in order to gain membership to the site?

12 A. Correct.

13 Q. So could you just happen upon the site? Would the user  
14 know what they're accessing, based on your undercover session?

15 A. You would have to know the actual specific URL to be able  
16 to access the site.

17 Q. Okay. And just briefly describe what exactly is a URL  
18 for the jury.

19 A. A URL is the uniform resource locator. It's really the  
20 alphanumeric address where that page is located, so CNN.com or  
21 Yahoo.com. In the case of Tor, it's a randomly generated 16  
22 character address followed by dot onion. So as opposed to dot  
23 com or dot org, it's dot onion. So it's difficult to memorize  
24 that 16 character bit.

25 Q. You had to have that 16 character bit in order to access

1 the site?

2 A. Yes.

3 Q. Agent O'Donnell, the UC sessions you conducted on the  
4 child pornography site, who is in charge of the site, or what  
5 members were in charge of the site?

6 A. So there were a number of administrators, global  
7 moderators and local moderators, and then the main  
8 administrator was a user -- or the user PlayPen.

9 Q. Okay. And based on your experience, investigation, and  
10 Tor-based child pornography websites, just briefly describe  
11 for the jury, you know, what an administrator is and what a  
12 moderator is; describe the duties.

13 A. It can vary a little bit. Generally speaking the  
14 administrators are responsible for the overall functionality  
15 of the site, keeping it operational, creating the different  
16 sections and categories, creating the rules, also settling  
17 member disputes and those sorts of things.

18 Moderators can also be involved in settling member  
19 disputes or enforcing the rules, ensuring that the content is  
20 posted in the correct categories.

21 And in this case there were local moderators that sort of  
22 oversaw different sections of the board that had different  
23 foreign languages. So there was an Italian section, a French  
24 section, and they would have local moderators for each one of  
25 the sections.



1 Q. Okay. You touched on this briefly, but just how did  
2 you -- what are some of the ways members could communicate on  
3 this website?

4 A. So as I mentioned there were posts the users could make,  
5 and they could -- in the various different threads or forums,  
6 and the other users could read those posts, they could reply.  
7 And those replies would be listed in chronological order  
8 beneath the original post.

9 There was another feature, there was a private messaging  
10 feature that was more of a one-on-one private communication  
11 between users.

12 And there was also a link on the site to "PlayPen Chat,"  
13 which was essentially a big chat room where multiple users  
14 could go in and communicate as a group.

15 Q. And based on your undercover session of this site,  
16 approximately how many posts in images of child pornography  
17 were there?

18 A. I believe by February of 2015 there was approximately  
19 95,000 posts and tens of thousands of images.

20 Q. What are some of the ways members on PlayPen used to not  
21 get caught in order to evade law enforcement detection?

22 A. Well, the primary way was through the use of Tor itself.  
23 And then there were also -- users were encouraged on Tor  
24 sites, in general, to never use usernames or screen names,  
25 which is essentially just an online nickname that you would

1 create for yourself, to never use any identification or  
2 anything that could potentially identify you through that  
3 username.

4 Q. You said that there were sections set up so there was --  
5 did they advise others on various security precautions to  
6 take?

7 A. There were multiple categories on the site dedicated to  
8 current events, news articles, as well as general use of the  
9 site and specific -- excuse me, specific security measures  
10 that users could take to avoid law enforcement, both on site  
11 and in the potential case of a search warrant or other contact  
12 with law enforcement.

13 Q. And during your documentation, UC sessions of the site,  
14 did you become familiar with the username -- you mentioned  
15 PlayPen, you're familiar with that, PlayPen as being the main  
16 administrator of the site. Did you also conduct UC sessions  
17 on usernames "Isabella" and "Stretch Armstrong"?

18 A. Yes, I did.

19 Q. Did you document their activity separately?

20 A. Yes.

21 Q. Just briefly, Agent O'Donnell, I want to show you what  
22 the United States has marked as U.S. Exhibits 1 through 16.  
23 If you would briefly scroll through these. I want you to take  
24 a look at them.

25 Are these the screen shots you just saw, are they a fair

1 and accurate representation of the PlayPen website as they  
2 existed the day that you conducted your UC session?

3 A. Yes.

4 Q. I also want to show you, just briefly, run through U.S.  
5 Exhibits 17 through 39b.

6 Agent O'Donnell, are these exhibits also a fair and  
7 accurate representation of the PlayPen website user activity  
8 for the user accounts PlayPen, Isabella, and Stretch Armstrong  
9 as they existed the day you conducted your UC sessions of  
10 these individuals?

11 A. Yes.

12 MR. JONES: Your Honor, at this time the United  
13 States moves to admit Government's Exhibit 1 through 39b.

14 THE COURT: They will be admitted.

15 (Government's Exhibits No. 1-39b were received into  
16 evidence.)

17 Q. Agent O'Donnell, what I want to do now is just walk  
18 through -- walk the jury through how the -- the website, the  
19 PlayPen website. So if you would, we want to start this just  
20 by looking at Exhibit 1 of the PlayPen main page.

21 Permission to publish the exhibits to the jury, Your  
22 Honor?

23 THE COURT: That may be given unless the Court  
24 instructs otherwise.

25 MR. JONES: Thank you, Your Honor.

1 Q. Agent O'Donnell, would you just walk the jury through, I  
2 believe they can see, they have access to page 1 -- to the  
3 exhibits now. Just walk the jury through this main page.

4 A. So this is the home page or that initial page the user  
5 would view when accessing PlayPen with the -- in the upper  
6 left-hand corner is the actual URL followed by the dot onion  
7 slash PlayPen that I mentioned earlier. So that's that  
8 specific URL that the user would need to know in order to  
9 access the site. Beneath that is basically the logo of the  
10 site "PlayPen" and the two clothed females with their legs  
11 spread. And then there's a message underneath that talking  
12 about "no cross board reposts dot seven preferred, encrypt  
13 file names include preview." That was referencing certain  
14 rules I mentioned earlier that were on the site.

15 Cross board repost meant there were -- members of the  
16 site were also members of other Tor hidden services. It was  
17 considered bad form to take posts that were made on other  
18 boards and post them to this board. And other boards had  
19 similar rules. And then some of the other categories there  
20 are just different rules for how the site functioned.

21 Q. Okay. If you would, just zoom in on the red marking.  
22 Please read that warning sign as well.

23 A. So this was posted on the site states, "Please read.  
24 Anybody talking about the LEA will be banned. No warnings. I  
25 am just tired of it."

1           LEA in this context refers to law enforcement. I don't  
2 remember when exactly this banner was placed on the website.  
3 There was a period of time when there were some rumors  
4 floating around the website as to where it was being operated.  
5 So this message was posted.

6 Q.    Okay. If you would, the top right hand corner. You'll  
7 zoom in on that and walk the jury through this part.

8 A.    So this is one of the areas on that home page where a  
9 current user could log in by entering the username in the  
10 first box and a password in the second box, and clicking on  
11 the log in button. If you were not a current member, this was  
12 your first time at the site, you could click on -- in the blue  
13 highlight there where it says "Register," you could click on  
14 the register button and it would take you to the rules page  
15 then the registration page after that.

16 Q.    Okay. We're going to go to the middle of the page now  
17 and zoom in on that. Just walk the jury through the warning  
18 on the log in info.

19 A.    So the warning, "Only registered members are allowed to  
20 access this section. Please log in below or register an  
21 account with PlayPen."

22           Again, this is another area where current users could log  
23 in. And if you were not the current user, then you would have  
24 to click on that and register an account in order to create  
25 your account.

1 Q. And then we go to the bottom of the page.

2 A. This was a link to that PlayPen chat I mentioned earlier  
3 that was the chat room where multiple users could join and  
4 communicate with each other.

5 Q. Okay. Turning now to Government Exhibit 2. I just want  
6 you to, if you would, just want you to read the registration  
7 agreement that members had to accept before becoming members  
8 of the site.

9 A. So this is the page after clicking on that register an  
10 account that you would be directed to. The registration  
11 agreement states, "Very important. Read all of this please.  
12 I will add to this as needed. The software we use for this  
13 forum requires that new users enter an email address and  
14 checks that what you enter looks approximately valid. We  
15 can't turn this off but the forum operators do not want you to  
16 enter a real email address. Just something that matches the  
17 XXX@YYY.ZZZ pattern. No confirmation email will be sent.  
18 This board has been intentionally configured so that it will  
19 not send email ever. Do not forget your password. You won't  
20 be able to recover it. After you register and log on to this  
21 forum, you will be able to fill out a detailed profile. For  
22 your security you should not post information here that can be  
23 used to identify you.

24 "Spam flooding, advertisements, chain letters, pyramid  
25 schemes, solicitations are forbidden on this forum.

1           "Note that it is impossible for the staff or the owners  
2 of this forum to confirm the true identity of users or monitor  
3 in real time all messages posted, and as such, we are not  
4 responsible for the content posted by those users. You remain  
5 solely responsible for the content of your posted messages.

6           "The forum software places a cookie, a text file  
7 containing bits of information such as your username and  
8 password in your browser's cache. This is only used to keep  
9 you logged in or out. This website is not able to see your IP  
10 and cannot collect or send any form of information to your  
11 computer except what you expressly upload. For your own  
12 security when browsing on Tor, we also recommend that you turn  
13 off JAVA script and disable sending of the referred error."

14           And then at the bottom is the, "I accept the terms of the  
15 agreement," which you would click on in order to be taken to  
16 next page.

17       Q.    Okay. So once a user read the registration agreement and  
18 agreed to registration, looking now -- let's go to now U.S.  
19 Exhibit 3.

20           Briefly describe for the jury -- which this is going to  
21 be scrolling so I want you to just briefly describe for the  
22 jury some of the sections of what this page entails.

23       A.    So this would be the main index or home page on the  
24 website after a user either registered an account for the  
25 first time and gained access or after a current user logged in

1 with his username and password.

2 At the top left is the same information that was on the  
3 home page. Just various categories at the very top that users  
4 could click on for different sections of the site. In the top  
5 right corner that's information related to the specific user  
6 that's logged on. In this case this is one of my undercover  
7 accounts showing that I was logged in that date and time.

8 And then beneath that was where the main forum of the  
9 website began. The first forum category was this "General"  
10 category which included various different topics such as  
11 "Security and Technology, How To," and the "PlayPen  
12 Information and Rules."

13 Q. Okay. Just briefly, the "Requests," what did that entail  
14 for the jury?

15 A. It could entail a multitude, but it generally was  
16 specific requests for certain child pornography or child  
17 erotica series the users might have been looking for. They  
18 could post requests for that information here with the hopes  
19 that someone else would read it and provide that.

20 Q. Okay. And just staying with the general category, just  
21 go over the highlights. The second category where it has  
22 "Posts and Topics," explain to the jury the number before  
23 those and then the posts and the topics.

24 A. So the site kept track of every topic and thread and  
25 every post that was made to the site. And so in that column,



1 all the way through those index page there were -- every time  
2 there was a new post or a new topic created those numbers  
3 would be updated. So that very first line where it's "PlayPen  
4 Information and Rules," there were 25 different topics that  
5 had been created within that sub-forum with 236 total posts.  
6 And those posts could include original posts and then also  
7 replies to those posts by the user.

8 Q. And then just the third section, the last post.

9 A. Oh, and then in that final category the site also kept  
10 track of the last post that was made to each one of those  
11 categories or sub-forums. And it would -- keep track of the  
12 username, the topic that it was posted in, and the date and  
13 time that it was posted.

14 So, again, in that first line the username who made the  
15 last post was -- I don't know if that's an O or A, but  
16 B-o-b-y. And then the specific topic below that and the date  
17 and time.

18 Q. Okay. So just continuing to walk -- just on page 3, just  
19 walk down, just going to walk through, you got these  
20 individualized. But just walk the jury through some of the --  
21 just the titles of each section.

22 A. So the next section was "PlayPen Chan" which included  
23 "Jailbait Boy, Jailbait Girl, Preteen Boy, Preteen Girl."  
24 These are those categories I mentioned earlier of the  
25 "Preteen," meaning prepubescent, and the "Jailbait," generally

1 in the 13 to 17, or 14 to 17 age range.

2 Q. Okay.

3 A. The next section, "Jailbait Videos For Girls or Boys."

4 So in this case, again, it's that 13 to 17 range and only  
5 links to videos were supposed to be posted here.

6 Q. Okay.

7 A. Beneath that "Jailbait Photos," same as above except  
8 photos in this case instead of videos.

9 And then beneath that section was "Preteen Videos." This  
10 contained the prepubescent material I mentioned. These were  
11 supposed to be links to actual videos. So you had "Girls HC,  
12 Girls SC, Boys HC, Boys SC." HC and SC stood for hard core,  
13 soft core. And then the "NN" was for non-nude.

14 Q. Okay. Just for the jury, what exactly is hard core and  
15 soft core?

16 A. Soft core, generally speaking, was what -- it could  
17 contain child pornography or child erotica. Child erotica  
18 would be children posed in a sexually provocative manner but  
19 wouldn't necessarily rise to the legal definition of child  
20 pornography. But it also could contain child pornography  
21 without explicit sexual acts. Whereas hard core would  
22 typically depict a child, multiple children, engaged in sexual  
23 acts, whether that's oral, vaginal, anal penetration, as well  
24 as bestiality, or bondage.

25 Q. Okay.

1 A. A similar section here with the "Preteen" sections, both  
2 hard core and soft core, except these are for photos as  
3 opposed to videos.

4 And then "Web Cams," again, "Girls," "Boys," there's no  
5 specific age range designated here.

6 The next section down is "Potpourri," which is kind of a  
7 mix of items that included "Incest Involving Children,  
8 Toddlers." So this section included babies and toddlers, both  
9 images and videos. Typically that category was reserved for  
10 the age of zero to two.

11 And then "Artwork" were beneath that which were drawings,  
12 computer animations and such.

13 Q. And just on the "Toddlers," if you would go to the second  
14 section when it comes to "Posts and Topics." How many posts  
15 were there in that section during your UC session?

16 A. So at the time I conducted the screen capture there were  
17 1,336 posts in the toddler section with -- or within 106  
18 different topics.

19 Q. Okay.

20 A. This next category for the "Kinky Fetish" category. This  
21 was, again, a variety of different specialized topics relating  
22 to children's sexual activity. "Bondage, Chubby," I believe  
23 the next category is "Feet, Panties, Nylons, Spandex, Peeing,  
24 Scat, and Spanking, Vintage, Voyeur, Zoo."

25 Q. Could you explain to the jury what exactly is "Scat"?

1 What is Scat?

2 A. In this context it's sexual activity involving children  
3 or feces or excrement.

4 This section I had mentioned earlier is the different  
5 foreign language categories of the site. You can see the  
6 various Italian, Dutch, Spanish. And then there were local  
7 moderators that oversaw these sections.

8 Then the last category was "Stories," "Fiction" stories  
9 first. And then this "Tor Chat Information Exchange." This  
10 is where users could exchange their Tor Chat IDs. Which "Tor  
11 Chat" was an instant messaging feature that also utilized the  
12 Tor network to communicate. So it was an anonymous way of  
13 using an instant messaging program.

14 Q. Please explain this last part, the "PlayPen Information  
15 Center," starting with "Recent Posts."

16 A. So the site kept track of other information on, as well,  
17 that first category, the most recent -- the five most recent  
18 posts that have been made to the site, that was just a rolling  
19 figure that update as people posted.

20 The next category were the "Stats," these would also  
21 update. So at that particular time there were, looks like  
22 95,148 posts and 9,333 topics by 158,094 members.

23 And then the last category just kept track of how many  
24 users happened to be logged on to the site at that particular  
25 time.

1 Q. Now let's move to, if you would, we just want to walk  
2 through some of those sections just very briefly for the jury.  
3 Turn to U.S. Exhibit 3a. I'm showing you U.S. Exhibit 3a, I'm  
4 sorry. If you can just walk through some of the categories  
5 of -- sub-forums within this "General" category.

6 A. So that the different categories here "PlayPen  
7 Information and Rules, The How To Section, Security and  
8 Technology, The Requests, General Discussion, The Indexes,"  
9 and then "Trash Pen."

10 Q. Let's go to U.S. Exhibit 4, at this point. Could you  
11 just briefly describe for the jury what is located within  
12 these sections. Just read some of the subjects and start at  
13 the top.

14 A. So this is in the "How to" section of the site. The  
15 topics are listed in that left-hand column. So the first  
16 topic, "How to Extract RAR and 7Z files." Below that, "How To  
17 Make Your Own PlayPen Posts More Creative." And they have  
18 some of the security guides and things below.

19 Over to the right they would have the total number of  
20 replies for each one of those different threads and how many  
21 times that thread had been viewed. So in the case of the  
22 first category of "How to Extract RAR and 7Z Files," they had  
23 14 users reply to that with 665 views, with the last posted at  
24 that particular time was September 15 of 2014.

25 Q. Okay. And just, generally, the top of that one has

1 "PlayPen General" category and "How To." Just briefly  
2 describe how you would get to this page.

3 A. So from the previous page that we looked at, the full  
4 index site, if you clicked on within that "General" category,  
5 the different categories beneath it, the "How To" section. If  
6 you clicked on that "How To" section right here in the second  
7 line they would then direct you to that next page.

8 Q. Okay. All right. Just go to the bottom of this page.

9 Just, kind of, describe for the jury, kind of, some of  
10 the language listed there.

11 A. At the very bottom?

12 Q. Yeah, or just -- you can just start with some of the  
13 subject titles there is fine.

14 A. So, again, these are other topics related to how to post  
15 on the site, how to repost, some other information related to  
16 the sites with "viewing thread attachments, making a contact  
17 sheet, how to compress your files" and "encrypt" and  
18 "password" protect them.

19 And then the bottom right are different options to either  
20 post a new topic and create a new topic yourself that you  
21 could post that users could reply to. The "New Pole" was, you  
22 could create your own pole on the site and let people vote.  
23 The "Notification" button, and then a "Marked Read" button.

24 Q. Okay. All right. If you would, turn to U.S. Exhibit 5.  
25 Let's go to U.S. Exhibit 6. What section are we looking at

1 here?

2 A. So this is the "Toddler" section that I mentioned  
3 earlier. And, again, if you clicked on that "Toddler" section  
4 from the main index site, this is the page it would take you  
5 to. The different forums are in very similar format,  
6 regardless which one you click on.

7 So in this case, similar to the last how to section, the  
8 topics are on the left column with the replies and views over  
9 to the right, and then the last post over to the far right.  
10 In this case there's various topics here "Little Potty Sex  
11 Pics, Random, Mom Licks her Four Month Old Pussy, 75 Bid."  
12 Bids being toddler, baby pics, et cetera.

13 Q. Looking now at U.S. Exhibit 7, if you would, walk the  
14 jury through that, where this is located.

15 A. So this is in the "Preteen Videos," the "Girls Hard Core"  
16 section. And the specific topic is "Buratino-06." This  
17 post -- this topic was created at 9:23 in the morning of that  
18 day by the user "Mr. Devi" whose username and information is  
19 located on the left hand side. His -- the image you see there  
20 is his avatar, what's known as a profile picture. Users could  
21 create their own profile pics of anything they wanted, the  
22 type of member they were, the total number of posts. In this  
23 case, at least at this time, this user made 104 total posts to  
24 the site and had been thanked for those posts 154 times.

25 Q. Would you know the different types of members?

1 A. They had Administrators, Global Moderators, Local  
2 Moderators, Full Members, and I believe Newbies, or another  
3 category for, I believe, when users first signed up.

4 Q. Just looking at the top right hand corner, just briefly  
5 explain what this is, the thread.

6 A. So this is the -- just the top of that thread and some  
7 different options that the forum allows you to click on. So  
8 you can reply to that first button and post a reply to the  
9 actual site, "Notification" button. You could mark that topic  
10 as read or unread, send the topic, and then also print.

11 Beneath that was the total number of times, at least at  
12 the time of the screen capture that that topic had been read.  
13 In this case it was 309 times.

14 And then there were some options to either quote some  
15 text from that or to say thanks, which you would just click on  
16 that option there.

17 Q. All right. Moving now to U.S. Exhibit 8. If you would  
18 just walk the jury through, we're about to blow it up at this  
19 time, where this page was also accessed and what section of  
20 the site.

21 A. So this was in the "Kinky Fetish Bondage All Tied Up"  
22 topic. This particular post was made by the user "Sids," who  
23 was a "Newbie" who made, I believe, 18 posts at that time. At  
24 this time the posts had been read 5,826 times. The title  
25 beneath that is "All Tied Up." The date is given for when the



1 post is made. And then the next section includes the text  
2 that was posted by this user. So in this case he's stating,  
3 "Not sure what her name is. But I'm sure someone here will  
4 know."

5 The URL you see below that is where the full file --  
6 whether they're full images or video files. The way,  
7 typically, this site worked, as well as in service bulletin  
8 boards, the links to the -- or the full files themselves,  
9 let's say the full video file was, generally speaking, not  
10 hosted on that actual website. But they would post links or  
11 hyper links to external websites that were file sharing  
12 websites that users could then access and download that file  
13 to their computer and after doing so then there was a password  
14 there that file would be encrypted. And this password that  
15 you see right above the preview image, they would have to  
16 enter that password after downloading the file to their  
17 computer to be able to actually view that file.

18 The image that you see here and on the previous page were  
19 preview images, were contact sheets. And they were users,  
20 when they would make a post, were required to upload a preview  
21 image in that post of what the full file contained so that  
22 other users could get that preview before they went out and  
23 tried to download the other file.

24 Q. Was this thread -- was there a reply to this thread?

25 A. There was, yes.

1 Q. If you could read it for us.

2 A. So the original user had posted, "Not sure what her name  
3 is. I'm sure someone will know."

4 Another user shortly after that posted, "She is usually  
5 called Melanie. She is about my favorite bondage girl."

6 Q. All right. Then we'll move to U.S. Government's  
7 Exhibit 8a. What exactly is 8a?

8 A. So this is an image depicting what appears to be a  
9 prepubescent male or female or toddler who is bent over and  
10 tied with a rope with what appears to be a male finger  
11 penetrating an anus.

12 Q. Okay. Where did that image come from, from 8A?

13 A. I believe that was from one of the contact sheets of that  
14 preview image that was on the previous page.

15 Q. Okay. All right. Let's move now to U.S. Exhibit 9.  
16 I'll blow this up for you so -- have you explain this. Just  
17 explain this section of this thread for the jury. Just walk  
18 the jury through it.

19 A. My screen is currently blank.

20 THE JURY: Ours too.

21 THE WITNESS: So this is a post in the -- again, in  
22 the "Toddler" section. The title of this topic is "Little  
23 Baby Sex Toys" with some exclamation marks and the number 3.  
24 At the time this post had been read 5,642 times. The name of  
25 the member who posted it was Alleynea, who at that time

1 posted -- or made a total of 60 posts with an avatar or  
2 preview image of appearing to show a child being orally  
3 penetrated by a man's penis. The post itself contains the  
4 text, "I like to play with sexy babies." Then there's a  
5 preview image of an infant or a toddler -- female toddler with  
6 her legs spread and her vagina exposed.

7 Q. Were there replies to this thread?

8 A. Yes, there were.

9 Q. Read the replies for the jury.

10 A. So that's -- these replies are made by the same user who  
11 made the original post. The replies contain other images  
12 depicting female infants.

13 Q. Were there any -- also just some of the messages from  
14 that user.

15 A. So the final two replies on this page, the first one was  
16 made by the user "Jimmy Janz," who posted on September 10,  
17 2014, "Absolutely love number three. Thank you."

18 The final post or final reply in this category was by the  
19 user "Fuck Hard," who replied on September 11th, "Yes. Three  
20 is my choice. I love" -- or "love to lick her little pussy  
21 and asshole."

22 Q. Let's move now to U.S. Exhibit 10.

23 We talked about this a little bit before but just walk  
24 through, just generally first, just walk through Global  
25 Moderator, Administrator and Local Moderators for the jury.

1 A. So this is the section of the site that listed those  
2 categories I mentioned of -- it talked to global moderators  
3 first and the administrators and the local moderators.

4 So those general moderators, in this case there were  
5 seven this particular time. It has the usernames on the left,  
6 their particular avatars on the second column, the last date  
7 that they were active. Which at the time of the screen  
8 capture was the same day or within a few days before. And  
9 then the date that they originally registered to the actual  
10 site, and then there was a link that you could send them a  
11 private message if you wanted to contact them directly.

12 Q. And what are the -- just the local moderators -- just  
13 based on your knowledge and experience, explain what were  
14 their duties on these sites?

15 A. Again, it could vary somewhat, but in general they would  
16 enforce the rules on the site, they would settle member  
17 disputes. They would be in contact with the administrators  
18 about different -- maybe issues with the site. And again, in  
19 general, try to ensure that the posts were made to the correct  
20 topics.

21 Q. And going back up top, what section of the site was  
22 "Global Moderator/Administrators," this information found?

23 A. So this was in the "Staff List" which was just the  
24 section of the site that listed all the current actual staff  
25 members.

1 Q. Okay. Just moving down now to administrators.

2 A. So at this particular time in February of 2015 there were  
3 three total administrators with PlayPen, Isabella and  
4 Vitellius, their avatars, the last date they were active. In  
5 the case of PlayPen, the registration date was August 20,  
6 2014. And then again there was some contact information or a  
7 way to send them a private message.

8 Q. Okay. Again, just follow the local moderators.

9 A. And these were the local moderators for the different  
10 sites. So similar as above, the usernames, the avatars, the  
11 last date they were active, when they registered. And in this  
12 case there is one additional category for the actual specific  
13 forum -- foreign language forum that they were assigned.

14 Q. Okay. Moving now to U.S. Exhibit 11. Just briefly  
15 describe this section of the site to the jury.

16 A. So this was a -- there was, in addition to the staff list  
17 there was also a section of the site that listed all of the  
18 current members at that date and time. So this is a screen  
19 capture of the particular members, somewhat organized by the  
20 total number of posts that they had made. So on the left-hand  
21 column you see the usernames, then there's some other  
22 categories in between there. That middle category is their  
23 current position on the site. You can see some of the  
24 different categories here of Global Moderator, Hero Member,  
25 Senior Member. Those are generally -- the different

1 memberships were generally tied to how many posts that you had  
2 made on the site.

3 And then they have the date registered and the total  
4 number of posts that were made by that user at that date and  
5 time -- or by that date and time.

6 Q. Okay. Let's move to U.S. Exhibit 12 now. Describe the  
7 PlayPen Image Hosting, how that worked.

8 A. I believe this was the image -- image up loader where  
9 those preview images the users were required to post on the  
10 site, this is where they would go to upload those images.

11 Q. Okay. U.S. Exhibit 13. Briefly describe this thread for  
12 the jury.

13 A. So this particular thread was made in the "Preteen  
14 Photos," the "Girls Hard Core" section. The name of this  
15 thread was "Sammy 360 Photos." It was made by user "MoDom,"  
16 on January 30, 2015. At that time that user was a Senior  
17 Member who made 362 total posts.

18 Q. Okay. How many times was this thread read?

19 A. At this time this thread was read 5,678 times.

20 Q. Okay. Let's look at just a couple of the -- see if we  
21 can see a couple -- a few of the replies to this thread.

22 Okay.

23 A. So these particular users, in this case on January 30th,  
24 the first user made a post or a reply to this said, "This  
25 girl, she's one of the all time CP greats." In this

1 context CP is short for child pornography.

2 The next post down is by the user "MoDom" who stated --  
3 replying to the user above, states, "Most of the old timers  
4 here have got all of these classics, if 2004 is old enough to  
5 be classic. And if you bitch about being posted, the way I  
6 look at it, there are hundreds of new members who've never  
7 seen this stuff and they need to be well rounded Peedo Pees."  
8 And then the --

9 Q. Just briefly, Peedo Pees, do you know, based on your  
10 knowledge and experience, what that terminology means?

11 A. In this context generally refers to pedophiles.

12 Then the other user replies said, "I'll upload some mod  
13 things."

14 And then there's the next user that replied there has to  
15 do with the password apparently not working.

16 Q. Okay. Let's move now to U.S. Exhibit 13a. Okay.

17 A. These are images from the previous screen we looked at  
18 from that screen capture containing those series of images  
19 depicting a prepubescent female. Majority of these images  
20 depict child pornography of this female, including the oral  
21 penetration of her by a male's penis.

22 Q. All right. Let's move to U.S. Exhibit 15.

23 A. This is a screen capture of the "Preteen Videos" in the  
24 "Boys Hard Core" section.

25 Q. Okay. If you could, just for the jury, just read some of

1 the subjects and titles within this section.

2 A. So on that left-hand corner beneath where it says,  
3 "Subject Started By," the subjects are "Australia Blows 11  
4 year old," or "11yo," which in this context is 11 years old.  
5 "Boys Fucking, Whole Lot of Love." I can't read the next one.  
6 "Boys Battle" -- possibly "Bottle. Sucking, Cum Shot  
7 Copulation and Boys Having Fun."

8 Q. Okay. Let's move to U.S. Exhibit 16. Just briefly  
9 explain this section for the jury.

10 A. So this is the "Preteen Videos Girls Hard Core" section  
11 of the site. So this is page 1 of 7, meaning there's seven  
12 total pages of these topics and posts. The title of the  
13 posts, again, are in the left-hand column. So the first few  
14 here, "Kindergarten Trailers, K4b," et cetera.

15 Q. Okay. Now during the course of your undercover sessions,  
16 did you also -- you talked briefly about it, you also had an  
17 opportunity to conduct separate undercover sessions for the  
18 usernames "PlayPen," "Isabella," and "Stretch Armstrong"?

19 A. Correct.

20 Q. I want to show you now, starting with UC session 4,  
21 username "PlayPen." Starting with U.S. Exhibit 17. And  
22 briefly walk the jury through where we are now.

23 A. So this is a screen capture of the main profile page for  
24 the user or the administrator of PlayPen. So in the left-hand  
25 corner where it has "Summary," you have the username "PlayPen"



1 and his title on the site, which in this case is  
2 "Administrator." His current status at that time, whether he  
3 was logged in or off line.

4 And then there's some links beneath that to send him a  
5 private message or to view his posts or show some statistics  
6 that the site kept track of.

7 In the middle section are some of those statistics. So  
8 you have at the time of the screen shot, the administrator  
9 PlayPen had made 206 total posts. He'd been thanked 88 times.  
10 There's some personal text there that he had typed images that  
11 said, "Peace Out. Age: NA; Location: Other; the Date  
12 Registered," which was August 20th of 2014; the "Local Time"  
13 as recorded on the site; "English" language. And then the  
14 last date that this user was active.

15 Q. Now did everybody have a profile page like this on the  
16 website?

17 A. Yes.

18 Q. Now did every user have a page like this on the site, a  
19 profile page like those?

20 A. Members of the site, yes.

21 Q. Okay. Let's go to U.S. Exhibit 18. Briefly describe for  
22 the jury this page and where it was located on the child  
23 pornography website.

24 A. So on the left-hand corner of that previous page where  
25 there is an option to show statistics, these are some of the

1 statistics that the site kept track of. So the first section  
2 where it has "General Statistics" for this user, the  
3 administrator of PlayPen, the total time spent online, the  
4 site calculated how much total time from the date he  
5 registered to that point in time that he would log on to the  
6 site.

7 So in this case the totality of the time logged in was  
8 over 12 days and 7 hours, total number of posts, 206 posts,  
9 had started 37 topics, created one poll, and had voted 16  
10 times.

11 The next category is the time of day, typically, that he  
12 would -- this user would make those posts, it's usually broken  
13 out per hour. And then the most -- on the left hand side the  
14 most popular board by posts.

15 So these are the categories that this particular user had  
16 posted the majority of his posts to. You can see in this  
17 case, "General Discussion," the "Girls Hard Core" and the "How  
18 To" sections were the most prevalent.

19 Q. Okay.

20 A. And then finally at the bottom right was the most popular  
21 boards by activity. So that in this case the "Information and  
22 Rules" and "How To," "General Discussion," were the most  
23 active.

24 Q. Okay. All right. Let's move to U.S. Exhibit 19. What  
25 are we looking at here?

1 A. So this was a post that was made by the administrator  
2 PlayPen in the "General Discussion" category on September 6th  
3 of 2014.

4 Q. If you could read the post for the jury.

5 A. So the post states, "I just want to thank you guys for  
6 helping make PlayPen a good board. Today is 16 days scene" --  
7 I'm assuming that it should have said, "since I started  
8 PlayPen and already have 26,358 members. Now I never dream of  
9 this. Way faster than expect. I have worked my ass off  
10 making this happen and would like to ask you guys for  
11 suggestions to make it the best within reason. Now I would  
12 like to thank Axiom for all his help sharing some of his hacks  
13 with me. Class act guy. PlayPen."

14 Q. Move now to U.S. Exhibit 20.

15 A. This was another post that had been made by the user or  
16 the administrator PlayPen on August 29, 2014. The post  
17 states, "Started working on this. What languages do you think  
18 I should add?"

19 Q. Okay. Exhibit 21.

20 A. This was another post by the administrator PlayPen on  
21 October 25th, 2014, that he is -- or this user is apparently  
22 replying to the post that's listed there in purple was a post  
23 that appeared to have been made by another user. And so in  
24 this situation the user PlayPen is replying to this post.

25 Q. What does his reply say?

1 A. I'm sorry.

2 Q. His reply. What does his reply read?

3 A. So the reply states, "I just have the rating scale for  
4 the topic." If you look at the top center of the page you  
5 will see "Rate This Topic" with a choice of one to five stars.  
6 At the top left of the page click the circle pie chart button.  
7 Here you can see the most popular by rating the number of  
8 votes topics.

9 Q. Okay. U.S. Exhibit 22.

10 A. Another post that was made in the PlayPen Information  
11 Rules section on November 15, 2014. Similar to the last post,  
12 this was a reply to a post that had been made by another user.  
13 In this case the administrator PlayPen had posted, "Yes, I  
14 will change the server location and URL every so often just to  
15 keep them guessing. I will always post new URL to these two  
16 sites when they are working."

17 And then those two sites below are versions of the "Hard  
18 Candy" and "Wiki" I had mentioned earlier.

19 Q. Just explain to the jury again what the URL wiki, what  
20 was meant, based on your training and experience by this  
21 posting?

22 A. So these were basically index sites of various hidden  
23 services within the Tor network that -- and some other web  
24 sites that related primarily to the distribution of child  
25 pornography or child erotica.

1 Q. So he says, "just to keep them guessing."

2 A. In that context, based on my experience he's referring to  
3 law enforcement.

4 Q. Moving now to U.S. Exhibit 23.

5 A. This is a post in the "General Discussion" section to a  
6 topic that had been created about Scat. The administrator  
7 PlayPen had posted "Thanks. Scat section has been added."

8 Q. Okay. Exhibit 24. Just starting off, just kind of  
9 explain where, you know, the date of this thread, where it was  
10 posted to, the author, et cetera. Just walk the jury through  
11 it.

12 A. So this particular post was made in the "General  
13 Discussion" section of the site. A user S-h-y-o-s-c-i had  
14 made a post that stated -- this is on February 1, 2015, that  
15 it stated, "Admin, please take a look at the code and  
16 permission. Something is not working. From my last images I  
17 got the same answer." And then there's some text below that  
18 and he lists the images that he -- or this user was apparently  
19 trying to upload.

20 Beneath that on the same date, February 1, the  
21 administrator PlayPen had quoted the above post and then had  
22 typed the text, "Worked for me here when using the image tag."

23 Q. Okay. All right. So going through the -- we'll just  
24 kind of go through these images and go through the threads.  
25 Walk the jury now through the images.

1 A. So these are those contact sheets that I previously  
2 mentioned earlier containing preview images. In this case the  
3 majority of these images depict prepubescent females, both  
4 mostly naked in sexually suggestive poses with vaginas  
5 exposed.

6 Q. And who made these postings?

7 A. This particular post was made by the administrator  
8 PlayPen.

9 Q. Okay. All right. We could now move to U.S. Exhibit 25.  
10 If you could, just briefly like you did on 24, walk the jury  
11 through this thread as well.

12 A. So this is a topic entitled, "Web Cam Three Girls." That  
13 was created by the administrator PlayPen on October 12 of  
14 2014. The post contains the text file name and then a  
15 specific file, and then the link to download that actual file.

16 Q. What section was this thread posted by PlayPen?

17 A. I believe this was made to the "Web Cam" section of the  
18 site.

19 Q. Okay. How many times were -- if we could zoom in just on  
20 the PlayPen administrator activity. How many times were the  
21 username -- the administrator PlayPen thanked for posting this  
22 thread?

23 A. The administrator PlayPen had been thanked a total of 88  
24 times. I believe that's in total, not necessarily just about  
25 this thread.

1 Q. Okay. And do we also have a reply to this post?

2 A. Yes, there's one reply on November 6, 2014.

3 Q. Okay. What does it read?

4 A. I believe that says, "Thanks muchly."

5 Q. Okay. Let's move now to -- so just walk the jury through  
6 the file name and the download, what that entails.

7 A. So the file name that's filed by the dot 7Z, that's a --  
8 just a file compression program that the videos or the images  
9 would be compressed in that format and encrypted with a  
10 password. So the line below that where it has a URL to -- I  
11 believe in this case it is upload or up file. You click on  
12 that URL it would take you to that site where that full file  
13 was actually located. And then you would have -- the user  
14 would have to download that file to their computer. And then  
15 using the password that in this case the administrator PlayPen  
16 had posted to his profile would be able to enter that password  
17 and then open up that file and view the contents of it.

18 Q. Did that take place in this instance?

19 A. Yes, I went to that site and downloaded that file.

20 Q. Okay. And so go to Government U.S. Exhibit 25a.

21 Is this an accurate depiction of the video you were able  
22 to download?

23 A. Yes.

24 Q. And just briefly, for the jury, describe the video.

25 A. So this video depicts two prepubescent females wearing

1 either underwear or bathing suits that are taking their  
2 clothes off and dancing in front of a camera.

3 Q. And approximately how long was this video?

4 A. I don't remember the full length of it.

5 Q. Okay. So if you could -- all right. Moving to the U.S.  
6 Exhibit 26. As you did 24 and 25, if you would just briefly  
7 describe this thread, where located on the site and who posted  
8 it.

9 A. This was a topic and post that was made to the "Preteen  
10 Video Girls Hard Core" section of the site entitled,  
11 "NattyDatty 8yo," which again, eight years old.

12 The post -- the topic is created by the administrator  
13 PlayPen on September 26 of 2014. The text in the section of  
14 the post contains the URL to find this file, similar to the  
15 last post, and the file name. And then over to the right,  
16 also similar to the last post, is the password once that file  
17 is downloaded.

18 Q. Who posted this thread?

19 A. This thread was posted by the administrator PlayPen.

20 Q. And on what date?

21 A. September 26 of 2014.

22 Q. Were there any replies to this post as well?

23 A. There were.

24 Q. Also, how many times was this post read, if you can see?  
25 We're trying to pull that up for you.



1 A. 12,141 times.

2 Q. Were you able to -- were you able to also download this  
3 posting?

4 A. Yes.

5 Q. All right. Just, again, what's the title of this thread?

6 A. So the title of this thread is "NattyDatty 8yo," or eight  
7 years old.

8 Q. Now I'm showing you what has been marked as U.S.

9 Exhibit 26a.

10 A. So this is a video depicting a prepubescent female being  
11 orally penetrated by a male's penis -- vaginally penetrated by  
12 a male's penis.

13 Q. And according to the thread, approximately how old was  
14 this girl?

15 A. Prepubescent. And the thread itself had stated she was  
16 eight years old.

17 Q. Okay. Agent O'Donnell, were you also able to conduct  
18 undercover sessions on the username "Isabella" for the site?

19 A. Yes.

20 Q. Showing you now what's been marked as U.S. Exhibit 27.  
21 Just explain, again, I want you to just walk through the  
22 Isabella's page and why you documented -- what was the purpose  
23 of documenting Isabella's activity on the site?

24 A. So the documentation of moderators and administrators of  
25 websites engaged in child pornography activity was just a

1 typical investigative step that we would take whenever  
2 possible in any website or hidden service.

3 So in this particular case I conducted undercover  
4 sessions on the other administrators and moderators of the  
5 PlayPen site.

6 Q. And just briefly walk the jury through a PlayPen summary  
7 page -- I'm sorry, Isabella's summary page.

8 A. This is the profile -- main profile page for the  
9 administrator Isabella, similar to the other profile page on  
10 the left hand side. It contained the Isabella username, the  
11 role on the site, which in this case was administrator.  
12 Whether this user was online at that particular time, and then  
13 some links below that to send them a message, show their posts  
14 or the statistics.

15 In the middle of the page were the total number of posts  
16 made by this user by that date and time, which in this case  
17 was 145. This user had been thanked 222 times. The personal  
18 text added here states, "Don't ever feel bad for being what we  
19 are." Age is not given. The date registered was August 24,  
20 2014. The local time is recorded on the site. And then the  
21 last time active, which in this case was today. And then  
22 below that is some information related to his passwords for  
23 files and links to those files.

24 Q. Okay. Moving now to U.S. Exhibit 28. Walk the jury  
25 through the Isabella stats page, similar to like you did for

1 PlayPen.

2 A. So this is -- clicking on that shows stats which would  
3 bring you to this page showing the statistics relating to this  
4 user. So, again, the total time spent online. This is the  
5 accumulative time that the website kept track of from the date  
6 of registration to that particular day. So the total number  
7 of time spent was 11 days, 1 hours, 18 minutes. The total  
8 number of posts were 145, 38 total topics started, no polls  
9 and no votes made. Below that, again, is the timeline  
10 throughout the day of when this user's posts were made. And  
11 then again at the bottom to the specific -- those posts  
12 related to the specific parts of the site. And so in this  
13 case the majority of this user's posts were made to the "Girls  
14 Hard Core" section, as well as the "General Discussion."

15 Q. Okay. Now, briefly -- we would move to United States  
16 Exhibit 29.

17 If you would, briefly, like you did with PlayPen, just  
18 walk the jury through this thread. Where it was located? Who  
19 made it, et cetera.

20 A. This particular post was -- or topic was made to the  
21 "Preteen Photos," the "Girls Soft Core Non-Nude" section of  
22 the site. The topic was entitled "Stocking Girl". And then  
23 in parenthesis "Requested." It was made by the user --

24 Q. Just briefly, what was that "Requested"? What does that  
25 mean?

1 A. So in this context it most likely would have meant that  
2 another user had requested this particular series be posted  
3 and so Isabella's fulfilling that request.

4 Q. Okay. And when was it made? What date?

5 A. So the administrator Isabella had made this post in  
6 February 3, 2015. And I believe this post had been read 3,394  
7 times.

8 Q. Just simply read Isabella's posting for the jury.

9 A. This post reads, "Here is Stocking Girl as requested from  
10 Mr. Debbie's Banner. Only a small set of 8 pics." And then  
11 that contact sheet contains those 8 images depicting -- the  
12 majority of which depict child pornography and child erotica  
13 of prepubescent female.

14 Q. And were there replies to this thread as well?

15 A. Yes.

16 Q. Were you able to subsequently download the thread --  
17 download the posting made to this thread, as well?

18 A. Yes.

19 Q. I'm showing you now what has been marked as Government's  
20 Exhibit 29a.

21 A. So this is that preview image. This is the preview image  
22 I mentioned depicting the prepubescent female in various  
23 poses, including those depicting child pornography, of her  
24 legs spread apart exposing her vagina and anus.

25 Q. Okay. All right. Just kind of briefly walk the jury

1 through a few of those responses posting child pornography.

2 A. So these are replies made by the users. The first is  
3 made on February 3. This says, "That's a girl. Thank you  
4 very much."

5 Below that is Mr. Debbie, who the user Isabella had  
6 referenced in the post who states, "Nice. I've been keeping  
7 my eye out for the rest of these. I swear there was more with  
8 another girl, though. Hmmm, maybe the stockings are mixing me  
9 up."

10 And then other replies the user Jazzy had posted, "Yes.  
11 Yes. Yes. I have finally found more pics of her. I've been  
12 asking everyone who she is. Do you have pics, et cetera? I  
13 knew of a few pics at Lolly B but now I can add a few of these  
14 most precious images. Yes. You know I have CP of hundreds of  
15 girls, but this one girl I love so much. So rare pics. Life  
16 is cruel. Thanks Bella, Jazzy."

17 And the next reply, "Great pics. That is one well fucked  
18 ass as well."

19 The next, "Love this girl. Be careful Isabella. You  
20 left a thumb's dot DB in your enjoy dot R file."

21 And then the last one here, "Are there any similar models  
22 or pictures from other models like this?"

23 Q. Just again for the jury, what section of the site is this  
24 thread post?

25 A. This is in the girls -- the "Preteen Photos," the "Girls

1 Soft Core Non-Nude" section.

2 Q. Moving down to Government Exhibit 30. Briefly walk the  
3 jury through this thread like you did the 29.

4 A. So this was made to the "General" category "Request"  
5 section of the site. This particular topic was entitled  
6 "Blonde BJ ID request." It was made on February 2, 2015, by  
7 the user Zovny. The text states, "Hi. Anyone knows the file  
8 name or where I find it?"

9 Q. Based on your knowledge and experience, what does this  
10 line, "BJ ID request." What does BJ mean?

11 A. In this context, blow job.

12 Q. What was date, again, of this request?

13 A. This was made on -- the original request was made on  
14 February 2nd. And then it appears a follow-up request was  
15 made by the same user on February 3rd in which he says,  
16 "Anyone, please."

17 Q. How many times was this thread read?

18 A. I believe that's 703 times.

19 Q. Just moving on, I want you to just kind of walk the jury  
20 through this section as well. Sorry, that would be this one.

21 A. So on February 3rd the administrator Isabella replies to  
22 the above request stating, "That would be this one. I'll work  
23 on posting part one and two." And then the contact sheet is  
24 posted below.

25 Q. Were there replies to this thread as well?

1 A. Yes, there were. The original poster replies here  
2 saying, "Thank you very much, Isabella. The preview very  
3 useful for me. I found the film and I downloaded it. Do part  
4 two only lesbian."

5 THE COURT: Now, have you reached a point of pausing  
6 for today?

7 MR. JONES: Yes, Your Honor. We probably have  
8 about, maybe about 30 more minutes on direct of this witness.

9 THE COURT: All right. Members of the jury, we'll  
10 take our break for the evening. I'll remind you about the  
11 instructions I gave you earlier. And just as a general  
12 summary of that, I would ask you to not discuss the case with  
13 anyone, including family members, or anyone involved in the  
14 trial or anyone else including your fellow jurors. If anyone  
15 should approach you or try to discuss the trial with you in  
16 any way, please let me know about that immediately. Also, you  
17 must not read or listen to any news accounts of the trial if  
18 there should be any. I don't know if there would be, but if  
19 there were you would have to restrain yourself from any such  
20 news accounts.

21 Also, do not read or listen to any news accounts.  
22 And remember, you must not talk about anything with anyone who  
23 is involved in the trial, even something that has nothing to  
24 do with the trial.

25 Now you may of course encounter one of the attorneys

1 on a break or out on the street or going to lunch or something  
2 of that nature, and they wouldn't speak to you but that's  
3 because they're not being rude, they're simply abiding by the  
4 Court's instructions not to talk to jurors about anything.

5 So if you need to communicate to the Court, you can  
6 do that by giving a note to the Marshal. Or if we're here in  
7 court, you can raise your hand and that would be accomplished.

8 Also I remind you, don't do any research or  
9 investigation about this case on your own. Don't engage in  
10 any use of the electronic media whatsoever that references  
11 this case. Do not form an opinion about the case until all  
12 the evidence is in and you've heard the instructions as to the  
13 law. So keep an open mind until you actually start your  
14 deliberation.

15 Thank you for your attention to these matters. We  
16 appreciate your service. You're free to go at this time. We  
17 will ask you to be with us at 9:30 in the morning and just  
18 come on into the jury room.

19 (The jury was escorted from the courtroom at 5:09.)

20 THE COURT: Anything for the Court before we recess?

21 MR. ADOLF: Judge, there is one matter. Since we're  
22 getting near the time for cross-examination of the agent --  
23 actually, I would like to do it outside the presence of the  
24 agent since it involves my potential cross of him and issues  
25 around that.



1           THE COURT: All right. If you would step down and  
2 proceed to the lobby, if you don't mind..

3           (Witness excused from the witness stand.)

4           MR. ADOLF: Your Honor, you'll recall the --

5           THE COURT: You all may be seated for this.

6           MR. ADOLF: I'm sorry. Thank you.

7           Your Honor will recall the Government's in limine  
8 motion to bar any mention of the Government's running the  
9 website after Mr. Chase's arrest. I think we've had some  
10 testimony now, the opening statement, I think I can more fully  
11 give an offer of proof as to why I think it is relevant and  
12 actually critical that we go into events that happened while  
13 the Government was running the website is this:

14           In their opening the Government said that there were  
15 logs on the server and that you could tell when Mr. Chase was  
16 logging in because it left a location. And that's what I  
17 addressed in my opening as well.

18           And the whole point of the Tor network is that it  
19 doesn't do that when you're doing it correctly. Which is that  
20 if you're logging on correctly there's no trace of where you  
21 are or anything like that. The Government said, on the other  
22 hand, that Mr. Chase must have been either so sloppy or lazy  
23 or uncaring that he of all people, the one running this  
24 website, did so in a way that left traces of his location. I  
25 don't think that's credible. And I think the proof of that is

1 that even when the Government was running the website they  
2 could not figure out where the users were logging on. Because  
3 that was the whole point of this operation they had where they  
4 took over the website and then put mal-ware on it so anyone  
5 logging in would get basically a virus on their computer that  
6 would reveal their location.

7 Because even the average user, whatever there was,  
8 100,000 of them, knew not to leave their location on the  
9 server, apparently not hard to do. Nevertheless, they're  
10 saying the person that ran the website didn't know that. I  
11 don't think that's credible.

12 I think what's more credible is that somebody was  
13 posing as him, as I told the jury. And as I say, the proof of  
14 that is just how hard it is to find someone who is using it  
15 correctly. Because even when they were running it they  
16 couldn't find it and they had to deploy this technique,  
17 basically hacking tool, to get the same locations that they  
18 say he left willingly.

19 So I think it's important for the jury to understand  
20 the weight of that evidence and how credible it is. And I'm  
21 not going to disparage the Government, they can do what they  
22 want, but I think it's important for the jury to know that  
23 even when they were in charge they had to go to extraordinary  
24 measures to figure out where these people were.

25 THE COURT: Thank you.

1           It appears the Government's concern primarily had to  
2 do with the numbers; that that would be prejudicial if the  
3 jury was advised of the numbers of images posted and other  
4 statistical data related to the Government's period of  
5 possession of that computer. And it seems to me that we might  
6 make that division and say that defense would not get into  
7 that but it otherwise would appear appropriate to discuss this  
8 issue of who's on and who's not.

9           MS. RANDALL: Your Honor, addressing kind of what Mr  
10 -- it's not only just numbers, it's also because it can be  
11 misleading or confusing to the jury --

12           THE COURT: Speak slowly so I can grasp it and use  
13 your microphone --

14           MS. RANDALL: Yes, sir.

15           THE COURT: Which is up again. Thank you.

16           MS. RANDALL: There's several issues with  
17 introducing the evidence of what happened after Mr. Chase was  
18 arrested. Because you're going to be getting into logs or  
19 software or images or posts that happened after he was  
20 arrested. It can get confusing for the jury.

21           As you heard, this is a website that had over 95,000  
22 posts and threads and over 100,000 images. We've streamlined  
23 the case to make sure we're only talking about things that  
24 happened when Mr. Chase was active -- was out of prison, or  
25 excuse me, not in custody and actively involved in the board.

1 They're talking about other events that happened after he was  
2 arrested. First of all, can be confusing or misleading. In  
3 addition to the fact we are concerned the jury could be  
4 prejudiced by this information as well.

5 With regards to Mr. Adolf's argument, the logs are  
6 what the logs are. The logs that the Government got from the  
7 server when they executed the search warrants speak for  
8 themselves. They took us where they took us to. The fact  
9 that what the logs said later after the Government took over  
10 the website are irrelevant.

11 The same information -- if he wants to make the  
12 argument that Tor hides IP addresses and can make it difficult  
13 to find people, you can do that using the logs we captured  
14 from before February 23rd. The same type of information was  
15 available then.

16 The Government still had the same problems in  
17 locating other users at that point. You don't need to get  
18 into what happened after February 20th to make that same  
19 point.

20 As I said, the logs are going to speak for  
21 themselves. And the fact is, the Government made the argument  
22 that he was sloppy during our opening statement. It's not  
23 even just based on those logs. It's based on how the payments  
24 were made and other IP logs from another -- from other  
25 sources.

1           So, as I said, introduction of that information is  
2 not only confusing but prejudicial. We would ask that it not  
3 be admitted.

4           MR. ADOLF: Can I address that briefly?

5           Here's the difference between before and after the  
6 FBI took over the website.

7           Before the FBI took over the website nobody was  
8 trying to find who those people were. And, in fact, Your  
9 Honor saw there were all kinds of messages and so forth -- or  
10 I should say, to be correct, nobody on the website was trying  
11 to find out who each other were. The administrators didn't  
12 want to know who the users were. And you saw and the jury saw  
13 that in the rules the way it was set up everybody -- nobody  
14 wanted to know who anybody was and that was completely clear.  
15 And they even said, "Be sure and use a fake email address when  
16 you sign up because we don't want to know who you are."

17           So it's one thing for me to say, "Well, it's very  
18 hard to find people on Tor." But all these people aren't  
19 trying to find each other. When the FBI takes over the  
20 website and actually physically has it in their hands and  
21 they're the ones running it, it's still impossible to find  
22 everybody. That's a big difference.

23           So for them to say that I can just say based on the  
24 earlier logs that you should infer that it's impossible or  
25 that virtually everybody leaves no trace on there, that's a

1 far more powerful argument when it turns out that the  
2 administrator, instead of telling people, "Don't tell me who  
3 you are," is actually on there trying to figure out who they  
4 are and still can't, even the finest minds in the justice  
5 department.

6           So I think it's important for the jury to know just  
7 how hard it was and just how easy it was for all these people  
8 to conceal who they were and where they were, when they then  
9 argued that Mr. Chase just easily revealed to these lives who  
10 he was.

11           So I think the fact that it's when the FBI has it  
12 makes a big difference. Again, I'm not disparaging the  
13 tactics, but I think the jury needs to know just how hard it  
14 was to do that and how unlikely it is that Mr. Chase was just  
15 leaving his information willy-nilly where it could be read on  
16 the website.

17           MS. RANDALL: Your Honor, he can make that exact  
18 argument without that additional information. The FBI  
19 executed an active search warrant in January of 2015 where  
20 they seized the same information from the website, including  
21 the log files and all that additional information. And the  
22 whole time they were continuing to try to work to identify  
23 other users, not just PlayPen. And, in fact, eventually  
24 identified the other co-defendants in this case through  
25 evidence that was not gathered through the new search warrant

1 that was eventually used afterwards. So it showed there was  
2 an ongoing investigation of all the users from -- throughout  
3 the entire investigation.

4 But what he's asking -- his argument he's asking to  
5 make, he can make without using the additional information of  
6 what happened. All that happened after February 23rd was that  
7 the FBI controlled the website and were able to introduce the  
8 special software that allowed them to then gather additional  
9 information that helped them in identification. But as we  
10 point out that, that was not a resource that was used in  
11 Mr. Chase and therefore would be either confusing or not at  
12 all relevant to his case.

13 THE COURT: All right. I'll have a ruling on this  
14 in the morning and we'll gather at 9:20 for the first of any  
15 further discussion and the Court's comments on that matter.

16 Thank you.

17 (The court was in recess for the day at 5:20.)  
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